







*Argumentum Anti-Normannicum :*

O R A N  
A R G U M E N T

PROVING,  
From Ancient Histories and Records,  
T H A T

*William, Duke of Normandy,*

Made no absolute Conquest of England  
by the ~~Sword~~ ; in the sense of our  
Modern Writers.

Being an Answer to these four Questions ;  
*VIZ.*

- I. *Whether William the First made an Absolute Conquest of this Nation at his first Entrance ?*
- II. *Whether he cancelled and abolished all the Confessor's Laws ?*
- III. *Whether He divided all our Estates and Fortunes between himself and his Nobles ?*
- IV. *Whether it be not a grand Error to affirm, That there were no English-men in the Common Council of the whole Kingdom ?*

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L O N D O N :

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*An Explanation of the Frontispiece,  
warranted by the Authorities cited  
in the following Argument.*

**N**O sooner had the \* *Valiant* *King Harold*  
**HAROLD** conquered the *victorious over*  
Danish King, and his *the K. of Den-*  
*mark & Tosta,*  
*Harold's Bro-*  
*ther at York.*  
*† William D. of*  
*Normandy, at*  
*the same time,*  
*lands in Sussex*  
but news was brought him, † That  
the **NORMAN** Duke was arrived  
at *Pemsey in Sussex* ; whereupon, with  
haste he went to meet him, and at  
\* *Hastings* gave the **NORMAN** battel,  
which proved fatal to him. *him at Hast-*  
*ings, where*  
*they fight.*

For he was, as you may see, \* *slain,*  
between the **NORMAN** *Long-Bows,*  
and **ENGLISH** *Spears,* leaving the  
**Duke VICTOR** in the Field. *\* Harold slain.*

**WILLIAM**, proud with this Suc- *The D. comes*  
cess, marches with all speed up to *up to London.*  
**Berk-**  
**hamstead,** near **LONDON.**

The Rest of the **ENGLISH** (if  
they had look'd upon his coming, as  
a Design to conquer the Nation, and  
not to assert his pretended legal Title  
against **HAROLD**;) were then able

A

to

## An Explanation

*Enters into  
Compact with  
the English, to  
make him  
King.*

to have driven him back to his own Country, or at least found him a Cumulary in this, (for there was not a fifth part of the Strength of the Nation that felt the Force of his Arms) but Duke WILLIAM and the ENGLISH soon came to an Agreement, and the latter entred into solemn Compact to make him King.

*Britan. gives  
him the Scep-  
ter.*

Thereupon BRITANNIA holds forth to him the Scepter with one Hand, And

*And St. Ed-  
ward's Laws  
to keep.*

With the other shews him the excellent and most famous Laws of St. EDWARD.

*A Bishop ten-  
ders the Coro-  
nation Oath.*

As also, at the same Time, a Noble Prelat tenders him the Coronation Oath: The ENGLISH first being asked, by the Bishop, If they would assent to have the Duke their KING? and if he should then be crowned? To which they all, with an unanimous consent, answered, Yea, Yea; Whereupon he takes the Coronation Oath; the sense of which take as follows.

*The Oath  
VVilliam took  
at his Corona-  
tion.*

*Sacramentum  
Willielmi Se-  
nioris. Ante  
Altare S. Petri  
Apo-*

This Scepter, (*Fairest Queen*) I most thankfully receive, and with it do solemnly Promise and Swear, to go-  
vern

of the Frontispiece.

between both Church and State in Apostoli co-  
ram Clero &  
Populo jure-  
jurando; Pro-

missione se vellet Sanctas Dei Ecclesias ac Rectores earum defendere, nec-  
tion & eundem Populum, sibi subiectum iuste, ac Regali providentia  
regere, rectam Legem Statuere & tenere, rapinas injustas; judicia pe-  
nitentis interdicere. *Hoveden pars Prior. fol. 258. l. 14.*

Exacto prius coram omni Populo iurejurando, quod se modeste ex-  
gera subiectos ageret, & æquo jure Anglos, quo Francos, tractaret. *Malmsh. lib. 3. fol. 154. b. l. 8.*

Rex pro bono pacis, juravit super omnes Reliquias Ecclesie Sancti  
Albani, Tassitq; Sacrosanctis Evangeliiis, bonas & approbatas An-  
tiquas Regni Leges, quas Sancti ac pii Anglie Reges ejus Antecesso-  
res, & Maxime Rex Edwardus Statuit, inviolabiliter observare. *Malmsh. Paris Vitz Viginti trioni Sancti Albani Abbatum. fol. 48. l. 37.*

And I vow to Rule my Subjects  
with that Justice and prudent Care, as  
becomes a good King.

I will (with the Advice and Consent  
of my Great Council) enact right Law:  
Which done, \* be Witness all ye Saints, \* The Invoca-  
tion.  
that to the utmost of my Power, I  
will my self religiously keep and ob-  
serve it.

For what can be more vain and in-  
consistent with the common Reason of  
all Mankind, than for a Prince pub-  
lickly and solemnly to ordain a Law,  
and the next moment after to break  
and abrogate it in his Closet?

All Rapines I will forbid; and all  
false Judgments; no illegal or ARBI-



*An Explanation, &c.*

TRARY ACTS, under pretence of the *Prerogative Royal*, will I suffer or permit to the oppression of my *ENGLISH Subjects*, between whom, and my *Normans*, I will administer *EQUAL RIGHT*.

And that *God, Angels, my NORMANS, and You, (O Sacred Queen)* may all be *Witnesses and Parties* to the sincerity of my Heart, That I will not take the *English-men's Inheritances* by *Injustice*, or thrust them out of their *Paternal Possessions* by *wrong*; That I have not, nor will pretend to any *Absolute, or Despotical Power* over their *Lives, Liberties, and Estates*; nor violate, break, or alter, the *Fundamental Rights* of the *Kingdom* (as *Tyrants* do, who only design to enslave their *People*). I do here solemnly promise and swear, in the presence of all *Ye mighty Powers*, inviolably to observe and keep the *Sacred Laws* of *St. Edward* my *Kinsman*.

Which said, the *Arch-bishop of York* sets the *Imperial Crown* upon *WILLIAM's Head*; and thus of a *Duke of NORMANDY*, he was created *KING of ENGLAND*.

To



TO MY  
Worthy FRIEND,  
The Learned Author of  
*Argumentum Anti-Normannicum.*

Great Britain! fairest Queen of all the Isles,  
Enrich'd at Home with bounteous Natures smiles!  
Thou such a self-sufficiency dost own,  
All Countries need thy Stores, but thou want'st none;  
Divided from the World, Thou to thy self art one.  
The Sea, and Continent, proclaim Thee Great,  
Proud Monarchs have lain Captives at thy Feet:  
The Scales of th' Western World are in thy Hand;  
Each Kingdom's Fate depends on thy Command.  
Where e're thy Friendship, and thy Force combine,  
Against that State in vain the Rest design.  
To Thee no Ills from Forreign Foes can come,  
The basest and more dangerous are at Home.  
No Desert Beasts of Prey thy Land does bear,  
But yet worse Beasts within thy Bowels are,  
Who would thy Rights and Ancient Glories tear.

Those

## To my Worthy Friend

Those having lost their Liberty of Mind,  
From vanquish'd Sires a weak excuse would find,  
Are these thy Sons? Or Marks of thy disgrace?  
Who own themselves a slavish conquer'd Race?  
The Norman Duke on Terms receiv'd the Crown,  
Swore, He'd by Edward's Laws support his Throne,  
Which sure no absolute Victor would have done.  
That Title which his Great Successor hath,  
Came from the Pat, not from the Breach of Faith,  
That gives the Bounds to all incroaching Might,  
And sets the Banks about the Subjects' Right:  
Who pulls them down, lets in a raging Sea,  
Which drowns, and swallows up all Property.  
Who ere attempt to let that Torrent in,  
At their own Houses may the Wastes begin;  
Let them for others Till their proper Land;  
Or under some base Favourites Command,  
May they, whilst others riot with their Stores,  
Without Relief beg at their Native Doors.  
Under their Countries Curse, their Tyrant's Scorn,  
May they with never-ceasing Pangs be torn,  
Who violate the Sacred Trust to which they're born.  
But blest be Thou, and all; who dare, like Thee,  
Bravely assert their Countries Liberty.  
Our well-built Freedom thou dost make to appear,  
And its Foundation from Time's Rubbish clear.  
The Norman swore to Laws by which we're free,  
Laws were more his, than our Security.

Him

the Author, &c.

Him King the People's joint Consent alone  
Did make, which by that Sacred Oath he won :  
Or that same joint Consent had made him none.  
We were no Norman Slaves ; nor French could be,  
Had we enough True Englishmen like Thee.

But now, my Muse, before you end, take care  
Humbly to close up all with Heav'n in Prayer ;  
Prayer for that King, who doth Great Britain Rule,  
Who of this Isle is th' Universal Soul ;  
In whom so many glorious Vertues shine,  
As make him seem to be of Race Divine.

May Heav'n continually His Guardian prove,  
And keep Him safe in all His Subjects Love !  
Long may unruffled Peace adorn His Crown ;  
May all the Laws in their smooth Channel run ;  
And flowing Justice still support His Throne.  
Thus blest, and thus united here at Home,  
What cannot Britain's Monarch overcome ?  
Oh may Great Edward's, and Fifth Henry's Soul,  
By Heav'nly Pow'r be transfus'd to him whole !  
May He ride Mighty Admiral of the Seas,  
Scourging His stubborn Enemies into Peace ;  
His Envyng Neighbours all their Powers disown,  
Strike to His Flag, and tremble at His Frown ;  
And th' humbled World be glad to pay him fear,  
And awful veneration every where.  
That this may be, —

May

To my Worthy Friend, &c.

*May the Illustrious Senate of the Land,  
With their Wise Councils, ever by him stand ;  
He pleas'd in them, and they resolv'd to show,  
What th' utmost stretch of Loyalty can do.  
Then will his Glories shine in brightest state,  
At th' Head of such a joint Triumvirate :  
Then King and People doubly will be blest,  
And Europe then enjoy a lasting Rest.  
For this let all our Vows to Heav'n be sent,  
To see Great Charles happy in's Parliament.*

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Argu=





## Argumentum Anti-Normannicum.

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S I R ;



You were pleased, some time since, (in my happiness of a short, but free conversation with you) to tell me, You had a mind to read how far I could give you satisfaction in a few *Points* you had raised to your self, concerning the *Norman Conquest* ; and that within a little while I should have a *Paper* from you wherein they should be contained : You were not long, Sir, in justly acquitting your self of your promise to me ; I did receive the *Furniture* of these ensuing *Arguments*, by the *four Questions* you sent me, and hope there is nothing to be found in them, but unbyassed and venerable  
B Truth,

Truth, which surely none will be offended to hear. I have endeavoured to pay all possible Respect to You, and to Justice; and, as far as my Abilities could reach, in so small a Treatise, have impartially offered my Thoughts upon them, and now beg your candour in judging me.

Your Questions, Sir, are these.

The First Question.

- I. *Whether William, Duke of Normandy, (who was afterwards William the First) got the Imperial Crown of England by the Sword, and made an absolute Conquest of the Nation at his first Entrance?*

The Second Question.

- II. *Whether this first William did abolish all the English Laws, and changed the whole Frame and Constitution of the Government?*

\*

The

The Third Question.

III. *Whether it be true, That the English had neither Estates nor Fortunes left, but all was divided between the King and his Normans ?*

The Fourth Question.

IV. *Whether it be not a grand Error to affirm, That there were no English Men in the Common Council of the whole Kingdom ?*

I shall take them, Sir, in the order you have sent them to me ; and so first begin with your first Question.

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## The First Question.

\* For *England* thus much I dare speak, and under the rule of Modesty protest, That sithence the *Universal Conquest of William*, who first commanded and imposed Tribute upon this Land, (for Conquerors may command) Tribute and Subsidie have been as justly, both by the Law of God, and the Law of Nations, paid in *England*, as in *Jerry*; yea, and justly continued, as a remembrance of a *Conquest*. Dr. *Fulbec* Pandects of the Law of Nations, c. 10. p. 69. One *Blackwood* wrote a Book, which concluded, That we are all Slaves by reason of the *Conquest*. Vid. Mr. *Peryt*. Misc. Parl. p. 66. And this Position is maintained by an *Anonimus Author*, in his full and clear Answer to Mr. *Peryt*'s Ancient Right of the Commons of *England* asserted. Pag. 35. in the Margin.

AS you have stated the Question, Sir, and desire to know what is my Opinion of it; with submission to others, better informed, and who are more able to maintain the Truth of those Principles I proceed upon, than my self, I shall return you this modest Answer, as my Sense and Judgment in the Point, viz. That I cannot conclude

clude in the Affirmative, for these several constringing Reasons.

1. That *William* laid a far greater stress upon his Claim and Titles to this Kingdom, than ever he did upon his great and mighty Conquest, will be very plain and evident, if you please but to consider with me these following Particulars.

1. In that before his Conquest, when the People had chosen *Harold*, the Son of Earl *Godwin* for their King, after the Death of *Edward* the Confessor, and had put aside *Edgar Atheling*, by right of Blood and Inheritance entitled to the Crown: This

Norman Duke made his loud Complaints of the Injuries done him, in not electing him, for he was \* Cosen German to the Confessor, who died † without Issue; and therefore pretended that the Right truly devolved upon him. But, it seems, as ill luck would have it, this Duke they knew to

\* *Edward the Confessor was Son to Egebed K. of England by Emma, Sister to Rich. 1. Duke of Normandy, who was Grandfather to Duke William; so that K. Edward and Duke William were Cosen Germans once removed, as this farther shews you.*

Richard 1.

Richard 2.

Emma.

Robert.

Edward.

William.

† *Edward married Edith, the Daughter of E. Godwin; but whether upon a vow of Chastity, or upon impotency of Nature, or upon any hatred to her Father, or suspicion against her self (for all these Causes are alledged by several Writers of those Times) he forbore all private Familiarities w. t. her.*



be a Bastard, and neither the Saxon Law, nor the Norman Custom, could help him in such a Case, and so that Title did him but little good. Well, what therefore was to be his next Work? Why,

Mat. Paris. 1.  
Antiq. Brit.  
Eccles. 96.

2. Truly his Pretence was then, That the Confessor had designed him for his Successor, and by his last Will had bequeathed this Kingdom to him; And this was confirmed by the consent of the Nobility, and principally of *Harold* himself; and hereupon considering how *Harold* had trickt him, and set the Crown on his own Head, he sends over several Ambassadors, with Commission to require him to remember the Oath he had formerly made to the said *William* in the time of his Extremity, when he was his Prisoner in *Normandy*; Which was, That he, the said *Harold*, should assist him in the obtaining of the Crown of *England*, if ever *Edward* died without Issue.

Wil. Malmesb.  
lib. 3, fol. 56.  
l. 252

3. And receiving but unkind Returns from *Harold*, by way of Answer to his Demands, which thus the Historian relates, *De Regno addebat præsumptuosum fuisse, quod absque Generali Senatus & Populi conventu & Edicto, alienam*

*alienam illi hereditatem juraverit* ; 'That  
 'as for him to take an Oath to deliver  
 'up the Inheritance of any Realm, with-  
 'out the general consent and  
 'allowance \* of the Senate  
 'and People, could not but  
 'be a great piece of pre-  
 'sumption, yea, altho' he  
 'might have just title so to  
 'do; † wherefore it was an  
 'unreasonable Request of  
 'the Duke now to require  
 'him to renounce the King-  
 'dom, in which he was so well settled  
 'to the good liking and content of  
 'his People. This Norman Duke, not  
 to be his own Judg, refers himself to  
 the Pope (then *Alexander* the second)  
 to decide the Matter, and so resolved  
 that the infallible Chair should deter-  
 mine who had the Justest Title to the  
 Crown and Kingdom, *Harold* or Him-  
 self. And the good old Gentleman  
 (who would not be behind-hand with  
 him in civility for so great a kindness,  
 as was the Appealing to him, and so  
 flattering him with a Judicatory Power  
 over Princes) easily was induced to  
 pronounce sentence on *William's* be-  
 half.

\* *That is, without the as-  
 sent of the Wittenagemot,  
 Mycel Synod, or Parliament.*

† *Præterea iniquum postu-  
 lat, ut imperio decedat, quod  
 tanto favore civium regen-  
 dum suscepit. Malmsh.  
 l. 3. f. 56. l. 30.*

But all these blustering Pretences of nearness in Blood, (which it seems his Son *Henry* thought to be the best flower in his *Garland*, when he

\* In his Charter, whereby he advanced the Abby of Ely into the degree of a Bishoprick.

Seldeni ad Eadmerum & Notæ & Spicileg. fol. 211. lin. 39.

\* calls himself the Son of *William the Great*, (pray, Sir, be pleased to observe, it is not of *William the Conqueror*) *Qui Edwardo Regi Hereditario Jure successit in Regnum*, Who succeeded to King *Edward* in the Kingdom, by Right of Inheritance) or the Confessor's bequest of the Crown to him. Or lastly, the Pope's definitive Sentence in *William's* favour. All these blustering Pretences of his, I say, availed but little with *Harold*; and therefore you must think, it could not but incense the Duke of *Normandy* very greatly; so that he had now a just cause of open quarrel against *Harold*, for the Reasons you have heard: And thereupon convening his Parliament, or Assembly of three Estates, which consisted of the Clergie, Nobility, and Commons; the Nobility, in fine, promised to serve him, and the Clergie and People to aid him with Money, according

Nobility is taken in France for Gentlemen, as well as for Earls, or persons of like dignity.

Vestegan's restitution of decayed Intelligence in Antiquities, dedicated to King James. pag. 173.

## *Anti-Normannicum.*

to their several Abilities, and such offers as they made, were forthwith set down in writing by a Secretary there present. So that being thus supplied, and assisted with several other of his Friends, he makes for *England*; and was no sooner arrived at a place in *Suffex*, called *Pevenessey*, (now *Pemsey*) and got well on Land, but, by his Proclamation, he declared upon what Occasions he thus entred the Realm; and so preparing to give *Harold* Battle, he hereby seemed as if he would have all the World to know, his Quarrel was more Personal than National. But this I will speak more particularly and largely to, when I come to mention some of the Charters he made after he was established King.

And as Perjury seldom or never escapes unpunished; so here was a visible Instance of the Divine Justice upon *Harold* for his breach of Oath and Covenant to the Duke; for in the Battle of *Hastings* he met with his Reward, losing both his Crown and his Life at once, and leaving *William* to finish the day with Victory, over those that were yet resolved to dispute the Cause with him.

And

And now being rid of his stubborn Enemy, and in the heat of the Chase got to *London*, he possessed himself of that Kingdom which he pretended was his own by Right before from the Titles we have already mentioned. Yet however it was in no such haughty and insulting way, as many boast of, and would gladly have their unwary Readers to believe, upon their bare Credit and Testimony; but he chose the more grateful and complying Artifices of a Courtier, and settled himself in it by a kind of mutual Agreement, and express compact, as now I hope will be clearly demonstrated by what I shall offer to you after this his (pretended absolute) Conquest. For,

1. Tho' he was victorious over his great Adversary *Harold*, yet if he had been an absolute Conqueror, (as hath been of late so vigorously asserted by our Modern Writers) what urgent necessity was there for him, or how did it stand him in such mighty stead, still to keep himself armed with the aforesaid Titles, that so he might have the more colourable pretence of Right and Justice on his side, in laying a legal Claim to this Imperial Crown? For,  
me-



me-thinks, if he had a full possession upon such a forcible entry, as is pretended, this had been a stronger Title than any thing else he could have alledged: for how could, or durst, a vanquished, enslaved Nation, dispute with him, when he rode triumphing on their Backs, and had lashed them into an entire submission of vassalage? But,

2. Let us see the manner of this first King *William's* Coronation; and whether or no he did not take an Oath at the same time, which was, in sense and substance (if not just in the words themselves) the very same with that which the Ancient Saxon Kings used likewise to take upon their Coronations. And for your full satisfaction herein, I shall give you the parallel of them both together, and begin first with

The Oath of either King *Edward*, or King *Ethelred*, (for *Dunstan* crowned both of them at *Kingston*) about the Year 970.

*In vita Al-  
fredi Magni,  
fol. 62.  
Promissio Re-  
gis vel Edwar-  
di vel Æthel-  
redi, (utrum-*

*huc enim Dunstanus Kingstonia Coronavit)* circa Ann, 970.]

This

Hoc Scripto,  
de litera ad li-  
teram, descrip-  
tum est ad  
scriptum illud,  
quod *Dunstan*  
Archiepif-  
copus tradebat  
Domino no-  
stro *Kingsto-*  
*nia*, ipso illo  
die quo Con-  
secratus erat in  
Regem; atq;  
illi interdice-  
bat ne ullam sponfionem daret præter sponfionem illam, quam depo-  
suerat in Altari Christi, quemadmodum Episcopus illi diceret.

This writing, punctually to a Let-  
ter, corresponds with that Writing  
which *Dunstan* the Arch-bishop deli-  
vered to our Lord the King at *King-*  
*ston*, that very day of his Coronation;  
and did then forbid the King, that  
thenceforth he should make any other  
Oath, than that which he had made  
at the Holy Altar, or what the Bishop  
should dictate then unto him.

In Nomine  
S. Trinitatis,  
Ego tria pro-  
mitto Populo  
Christiano,  
meisq; subditis.

In the Name of the Holy Trinity, I  
do promise three things to Chri-  
stian People, and my Subjects.

*The Oath of the  
Saxon Kings at  
their Coronation.*

1. Dei Ecclesi-  
am, ac Univer-  
sum mei Impe-  
rii Populum  
Christianum  
vera pace frui-  
turum.

1. 'That I will  
'peaceably govern  
'the Church of  
'God, and the Peo-  
'ple of my King-  
'dom.

The Oath which  
*William* the First  
took at his Co-  
ronation.

1. *That he would  
defend the Churches  
of God, and all their  
Pastors.*

2. 'That

K. William's Oath.

Saxon Kings Oath.

2. That he would govern all People that were his Subjects with Justice, and with that prudent care which became a good King.

3. That he would both enact, and himself keep, right Law, and to the utmost of his Power, would interdict all Rapines, and false Judgments.

4. And he added one Article more to the Oath, than was in that of the Saxon Kings; and it was extraordinarily necessary to be done, *rebus sic stantibus*, and that was, *Quod æquo jure Anglos & Francos Tractaret*,

2. 'That I will utterly interdict Rapines, and all Injustice to all Orders of Men.

3. 'That I do promise, and will command, That in all Judgments, Justice and Mercy shall be mingled together, to the end, that God, who is the Omnipotent Judge of the World, and ruleth over all, may be pleased, out of his infinite Compassion, to be propitiously good and merciful to us all.

2. Me Rapinam, omnemq; iniquitatem, omnibus ordinibus interdicturum.

3. Me promissurum & mandaturum in omnibus Judiciis, Justitiam & Misericordiam; ut nobis omnibus, pro infinita sua miseratione, propitius sit, Clemens ac Misericors Deus, qui vivit & regnat, &c.

That

## Saxon Kings Oath. K. William's Oath.

Christianus  
Rex, qui hæc  
observaverit,  
sibi promere-  
bitur honorem  
mundanum ;  
quinetiam illi  
Deus æternus  
miserabitur  
tam in hac vi-  
ta presenti,  
quam in Æter-  
na illa, quæ  
nunquam de-  
ficit.

‘ That Christian  
‘ King who shall  
‘ observe these  
‘ things, shall de-  
‘ servedly acquire  
‘ all earthly Ho-  
‘ nour ; moreover  
‘ the everlasting  
‘ Lord God shall  
‘ take Compassion  
‘ on him, as well  
‘ in this Life, as that  
‘ which is Eternal  
‘ and Endless.

ret, That he would  
govern both the  
English and French  
by the same equa-  
lity of Law with-  
out respect to ei-  
ther.

This Oath too  
he took at the Al-  
tar of St. Peter,  
before ever he was  
Consecrated, and  
the Clergie and  
Laitie were equally  
Parties and Wit-  
nesses: After which  
he was Anointed  
and Crowned by  
Aldred Archbishop  
of York ; for Sti-  
gand the Arch-bi-  
shop of Canterbury,  
was not admitted  
to that Office, be-  
cause of some de-  
fect in his Investi-  
ture.

But

‘ But if he shall do contrary to what he promised  
‘ God, thenceforth he shall  
‘ daily decline, and his Subjects shall fail in their Allegiance, and every thing  
‘ will be turned from bad to stark  
‘ nought, unless in time he reforms the  
‘ Errors of his Ways.

‘ Meditate often with  
‘ thy self, that thou shalt  
‘ one day bring thy whole  
‘ Flock before the Tribunal  
‘ of God, whose Shepherd  
‘ thou art here ordained,  
‘ and therefore often consider with thy self, and look forward  
‘ how thou hast kept those whom  
‘ Christ with his own dear Blood, hath  
‘ formerly redeemed.

‘ It is the Office of an Anointed King to judg no  
‘ Man unrighteously ; to  
‘ protect Widdows, Orphans and Strangers ; to  
‘ interdict Robberies ; to  
‘ punish Whoredoms ; to  
‘ separate and utterly to extirpate

Ac si irritum fecerit quod Deo erat promissum, tum deinceps egregie verget in pejus, mox quidem in populo suo ; & omne demum quicquid sit, convertetur in pessimum.

Hoc tecum saepe meditare, quod debeas in Dei Judicio gregem proferre & sistere, in quem Pastor in hac vita constitutus es ; & prospice quomodo conservasti quod Christus Sanguine suo olim redemit.

Regis Consecrati jus est male judicare neminem ; Vi-  
duas, Orphanos & Perigrinos tueri & conservare ; latrocinia prohibere ; scortatores corrigere ; incestuosos disjungere ac suaditus extirpare ; veneficas & incantatores delere ; Particidas & perjuros terris exterminare ; pauperes eleemosynis sublevare.



‘tirpate all incestuous Persons; to abolish and cut off Witches and Enchanters; to banish Parricides and perjured Persons out of his Dominions; to comfort the Poor with Almes.

Senes, Prudentes, & Sobrios sibi in consiliarios ascribere.

‘To call Grave, Sober, and wise Men to counsel and advise him.

Iustos sibi in Ministros constituere; quia quicquid ipsi injustum fecerint ejus (Auctoritate) universi illius rationem tenetur ille reddere in die Judicii.

‘To chuse just and good Men for his Ministers and Officers, because whatsoever illegal Actions they shall commit (under his Authority) he must, at the Day of Judgment, give an account for.

Exalt Collect.  
p. 28, 29.

Bract. lib. 3.  
fol. 107. a. b.

And the reason of all this is evident, both from the Laws of God and Man; the King is *Debitor Justitiæ* to all his People, to rule and govern them by Law: Which, as his late Majesty said, *is the Inheritance of every Subject, and the only security he can have for his Life and Estate.* *Ad hoc autem creatus est & electus*, writes Bracton, *ut Justitiam faciat Universis*: and that *dum facit justitiam Vicarius est Regis æterni, Minister*



*Minister autem Diaboli, dum declinet ad injuriam.* Henry the Third, upon a

Charter granted by his Father King John, and confirmed by himself, de-

clares, *Qui vero id quod dictus Pater* Rot. Claus. 9.  
*noster eis per Chartam suam concessit, &* H. 3. pars pri-  
 ma. m. 18.

*nos postmodum annuimus infringere nequaquam volumus, sicut nec de jure debemus* ; much less a Coronation Oath.

Edward the first tells the Pope, upon a Message sent him, That he could not answer without consulting his Parliament ; and gives this for his Reason,

*Jurejurando in Coronatione nostra prestito sumus adstricti, quod Jura Regni nostri servabimus illibata, nec aliquid, quod Diadema tangat, Regni ejusdem absque ipsorum requisito consilio faciemus.* Rot. Claus. 3.  
 E. 1. m. 9. in  
 Scheda.

Observe, lastly, that Edward the Third, that famous Conqueror of two Kings, the Scottish and French, hath left recorded to Posterity a definitive Sentence and Judgment in this Point, as an indisputable rule of Right and Justice ;

That he ought, and was bound by his Coronation Oath, to keep the Law of the Realm.

Pulton Stat.  
 25. E. 3. f. 150.

C

This

*Cited in*  
*White's Sacred*  
*Laws*, p. 69.

\* 27. E. 1.

† 25. E. 3.

\* 42. E. 3.

This Law of the Realm, or Land, was looked upon, in the judgment of these Parliaments, as \* *the Law of Ancient Time*, † *of old Time used*, and \* *the Old Law*; whose Age made it the more venerable, and gave an addition of honour to it.

Well, having thus shewn you the Coronation of King *William* the First, and given you the Solemn Oath he at the same time took, even before his Consecration, that so he might give all possible satisfaction to the English, of his resolving to rule accordingly; and also having made it plain, that it was the same in substance with that the Ancient Saxons took before him; I shall now descend briefly to set before you some of his own Charters, as likewise some of *William* the Second's, and of *Henry* the First's, his Children, and succeeding Kings; and from them evidence to you, I hope demonstrably, that it was not so much his *Conquest* he relied upon, when he was settled in this Imperial Throne, as his claim to the Crown of *England*, *Jure Hereditario*, by Right of Inheritance. And for the proof of this, be pleased

to accept of these ensuing Instances.

1. In Nomine Patris, & Filii, & Spiritus Sancti, Amen. Ego Willielmus Dei Gratia Rex Anglorum, *Hereditario Jure* Factus.

Carta Antiqua  
litera D.N.4.

2. In Nomine Patris, & Filii, & Spiritus Sancti, Amen. Ego Willielmus Rex Anglorum *Hereditario Jure* Factus.

Carta 4. E. 4.  
m. 27. per In-  
spex.

3. In nomine Sanctæ & individuae Trinitatis, Ego Willielmus Dei Gratia Rex Anglorum, notum facio omnibus, tam posteris quam præsentibus Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, & omnibus *fidelibus Franciæ & Angliæ*, Quod cum in Angliam venissem, & in finibus Hastings cum exercitu applicuissem contra hostes meos, qui mihi Regnum Angliæ injustè conabatur auferre.

Monast. Ang-  
glican. Vol. 1.  
fol. 317.

4. In ore gladii (*saitb William the First's Charter*) Regnum adeptus sum, Anglorum devicto Haroldo Rege cum suis Complicibus, qui mihi Regnum cum providentia Dei destinatum & beneficio *concessionis* Domini, & *Cognati* mei gloriosi Regis Edwardi concessum conati sunt auferre, &c.

Carta Westm.  
per Inspex.  
1. E. 4. parte  
septima m. 26.  
Mr. Seld. Re-  
view, p. 483.

Come we now to his Second Son,  
**William Rufus.**

Carta Regis  
 Willielmi Rufi  
 vide Monast.  
 Anglican. Vol.  
 1. fol. 352.

5. Willielmus Rex Anglorum, Willielmo Vicecomiti Filio Baldewini, & omnibus Baronibus suis & Ministris, qui habitant in Devonescira, Salutem. Notifico vobis, quod mea condonatione Ecclesia beati Olavi Regis, & Martyris à Monachis belli ædificata, in honore beati Nicholai, quam cum omni terra quæ pertinet ad Ecclesiam superscripti Martyris meo privilegio, videlicet Literis & Sigillo, liberam facio, & ita liberam & quietam per omnia cum faca & foca, & thol & theam, & infangenetheof, & warpeni, & mурdro, & omnibus consuetudinibus, & operibus & auxiliis, sicut Pater meus liberam fecit Ecclesiam Sancti Martini de bello, *ubi hostem devicit, & ubi Coronam Regni hereditariam sibi bellando adquisivit.* T. Walchelino Wintoniensi Episcopo & Rogero Bigot apud Wintoniam.

From

From **William Rufus** proceed we to his Brother,

**Henry the First.**

And, saith he,

6. In Nomine Sanctæ & Individuæ Trinitatis, Patris, & Filii, & Spiritus Sancti, Anno Incarnationis Dominicæ MCVIII Indictione . . . . . Anno vero Pontificatus Domini Paschalis Papæ secundi †, Regni quoq; mei similiter †, Ego Henricus providente divina clementia Rex Anglorum & Normannorum Dux, Willielmi Magni Regis Filius, qui Edwardo Regi *Hæreditario Jure* successit in Regnum, &c.

Ex Hist. Elenfis Eccles. M. S. in Bibl. Bodleana (inter Codices Cant. l. 58.) lib. 3. fol. 2. a. Monast. Anglican. Vol. I. fol. 95.

7. *Again*, Ego Henricus Dei Gratia Rex Anglorum, Filius Magni Regis Willielmi, qui beatæ memoriæ Edwardo in Regnum *Successit*.

Monast. Anglican. Vol. 2. fol. 845.

8. To give you one Charter more. The words of that of *Henry the First*, to the Abby of *Westminster*, are, Pro memoria *Edwardi* Cognati mei, qui *Patrem* meum *liberosq;* illius in Regnum suum adoptivos *hæredes* instituit.

Ex MS. Domini Rogeri Owen Equit. Aurati.



And thus have I given you, as it were, a three-fold Cord (not easily to be snapt asunder) to bind hard my Assertion, and to convince those, who will not suffer themselves to be overrun by an obstinate Prejudice, or captivated by a byas'd Interest, that our first William, when he came in, gained not such an absolute Victory as is pretended, over this Nation, (for when he came in, he had not subdued the fifth part of it) but came to the Crown by the Election and Consent of the Clergy and People. And, *sedus pepigit*, he made a Solemn Covenant with the English, to observe and keep those Laws, which were *bonæ & approbatæ, & antiquæ Leges Regni*.

And this, Sir, is what I shall endeavour clearly to make out to you in my Answer to your Second Question.

The Second Question.

*Whether this first William did abolish Quest, 2.  
all the English Laws, and changed  
the whole Frame and Constitution  
of the Government ?*

**A**Nd doubtless not ; for as my Lord Coke saith, *The Grounds of our Common Laws at this day, are beyond the Memory or Register of any beginning, and the same which the Norman Conqueror then found within this Realm of England :* And those Laws he swore to observe, which were good, approved, and ancient.

*Lord Coke's  
Preface to his  
8th Report.*

*Ex vitâ Abba-  
tis Sancti Al-  
bani.*

Now, that these were only his *Norwegian* Laws, sure none can, or ought to believe, after they have thoroughly examined these plain Truths, which I shall here offer to their fair perusal.

- I. If they please to consider what was the Title of the Laws, called the Laws of King *William the First*, published by Mr. *Selden*,

with his learned Notes upon Eadmer, (and since with the Saxon Laws).

Why, truly, the Title was plainly this ; *These are the Laws and Customs which William the King granted to the whole People of England after the Conquest of the Land. These were those which the King' Edward his Cousin held before him.* In these

Selden ad Eadmerum,  
fol. 173.  
Ce sont les Leis & les Customs que li Reis William grantut a tut le Peuple de Engleterre, apres le Conquest de la Terre. Ice les meismes que le Reis Edward sun Cousin tint devant luy.

Laws recited by Hoveden, in the Life of King Henry the Second, King Edward's Laws are confirmed in these words ; *This we command, That all Men have and hold the Law of Edward the King in all things ; together with those Laws which we have added for the profit of the English.*

So that here was no abolishing of the Old Saxon Laws that he found, when he came to govern this Kingdom, nor any setting up of new ones in their stead : No, so far was he from any such Designs of introducing new Laws, (which must needs be then the absolute Results of Arbitrary Will and Pleasure, to shew the sad and calamitous

tous Effects of an entire Conquest) to the overthrow of those so firmly established already; that, you see, he gives his Confirmation to King *Edward's* Laws, which indeed, generally speaking, were but a Collection of those the Historian calls, *Bonas Leges ab antiquis regibus latas, non quod ille statuerit, sed quod observaverit*; not so much the Laws of his own making, as those he caused to be strictly observed and put in execution.

Malmesb. de  
Gest. Regn.  
Angl. lib. 2.  
fo. 42. l. 21.

From the Title of his Laws, proceed we

2. To the Confirmation it self, and here I shall acquaint you with the manner of it, in all its necessary Particulars.

This *William* the First, with his French and Normans, putting many hardships upon the English, which occasioned great Disorders and Convulsions in the State; several of the Saxons chief Nobility, betook themselves to Arms for the sake of their *Avita Consuetudines*, to which they bore an immutable and an immortal Love, and which they feared some were endeavouring

Seld. Tit. of  
How. fol. 523.

vouring to take away and change them, though on the other hand they were obstinately resolved never to part from them, for they had à *Majoribus didicisse aut Libertatem aut Mor-tem* ; and they would rather undergo the worst Calamities of a more cruel War, than they would tamely quit and abandon those dear Laws and Customs, to which they had so long been used, and were so well acquainted with.

Ex lib. Monast.  
de Litchfield.  
Co. 8. Rep. in  
Pref.

The King hereupon, to keep the People in a greater observance of their Duty, and withal, not forgetting the Oath he had taken at his Coronation, caused *twelve of the most discreet and wise Men, in every Shire throughout all England*, to take an Oath before himself, to deal sincerely and uprightly, without turning either, *ad dextram, aut sinistram*, that is, as my Lord Coke interprets it, 'neither to flatter Prerogative, or extend Priviledg ; and to declare and lay open the Constitutions of their Laws and Customs, without concealing, adding, or in any sort varying from the Truth. But finding *William* and his Norman Barons, who were *Norwegians* by extraction,



Apud Lam-  
bard. fol. 149.

traction, were for introducing the Norwegian Laws: This the English thought a more killing blow than that of his Victory; and therefore *Universi Compatriotæ qui Leges edixerant, tristes affecti*, being all of them in a great Consternation, they beseeched him that they might still retain *Leges proprias*, their own Laws; and enjoy *Consuetudines Antiquas*, their Ancient Customs, in which their Fathers lived, & *ipsi in eis nati & nutriti sunt, quia Id. Ibid.* durum valde foret sibi suscipere *Leges ignotas*, & *judicare de eis quas nesciebant*, and themselves were born and bred up in, because it would be very hard to receive Laws unknown, and to judg of those things they understood not. And when *William* denied, they warmly reinforced their Requests, and then conjured him, *per Animam Regis Edwardi*, by the Soul of King Edward, *qui sibi post diem suum concesserat Coronam & Regnum, & cujus erant Leges*, that he would not impose a Yoke upon them which they were not able to bear, and which would only gall their Necks, and make them the more fretting and unruly.

King

Apud Cl.  
Lambard.  
fol. 158.

Co. li. 8. in  
Pref.

Ex Libro MS.  
de legib. antiq.

King *William* finding there was no Remedy, tho' he was long resolute, at last, in a **Common Council** of his Kingdom, yields; and by his **Magna Charta**, (the ground-work of all those that after followed) he confirmed to them their Ancient Laws, *ad præces Communitatis Anglorum*. Blessing it with the Seal of Security, and Wish of Eternity; closing it up with this general: And we further Command, That all Men keep, and observe duly the Laws of King *Edward*; rearing up the Frontispiece of his Gracious Work with his Glorious Stile, *Willielmus Dei Gratia Rex Anglorum, Dux Normannorum, Omnibus hominibus suis Francis & Anglicis, Salutem. Statuimus imprimis super omnia unum Deum per totum Regnum nostrum venerari, unam fidem Christi semper inviolatam custodiri, pacem, & securitatem, & concordiam, judicium & justitiam inter Anglos & Normannos, Francos & Britones Walliæ & Cornubiæ, Pictos & Scotos Albanie, similiter inter — & Insulanos, Provincias & Patrias quæ pertinent ad Coronam & dignitatem, defensionem & observationem & honorem Regni nostri, & inter omnes nobis Subjectos*

*jectos per Universam Monarchiam Regni Britannia firmiter & inviolabiliter observari.*

*Ingulphus*, Secretary to *William* in *Normandy*, and afterwards made Abbot of *Crowland* by him, is an unexceptionable Witness, to prove that the English Laws were then anew confirmed; and he saith, † ‘I brought this time  
‘with me, from *London*,  
(where he had been about the business of his House)  
‘to my Monastery, the Laws  
‘of the most just King *Edward*,  
‘which my Lord  
‘*William*, the renowned  
‘King of *England*, had pro-  
‘claimed authentick and  
‘perpetual all *England* over  
‘to be kept, under most grievous  
‘Penalties, and commended to his  
‘Justices in the same Tongue they  
‘were set forth.

And this Proclamation was not all (to allay the Storms, which perhaps the violation of these Laws had raised); ‘For the good of Peace, saith an ancient Monk, ‘he swears, upon  
‘all the Reliques of the Church of  
Saint

† *Ex Ingulpho Abbate Crowlandense, fol. 519. b. l. 37.*

Attuli eadem vice mecum de Londoniis in meum Monasterium Leges æquissimi Regis Edwardi, quas Dominus meus inclitus Rex *Willelmus* authenticas esse & perpetuas, per totum Regnum Angliæ inviolabiliter tenendas sub pœnis gravissimis proclamâret, & suis Justitiariis commendâret, eodem idiomate, quo editæ sunt.

\* Mat. Paris  
in vit. Frethe-  
rici Abbatis S.  
*Albani. fol. 48.*  
l. 39.

Bonas & ap-  
probatas anti-  
quas Regni Leges, quas Sancti & Pii Angliæ Reges ejus Antecessores  
& maxime Rex Edwardus statuit, inviolabiliter observare.

‘ Saint *Albane*, touching the Holy Go-  
‘ spel, Abbot *Fredrick* ministring the  
‘ Oath, \* the good and approved an-  
‘ cient Laws of the Realm, which the  
‘ Holy and Pious Kings of *England*, his  
‘ Ancestors, and especially King *Ed-*  
‘ ward set forth, inviolably to keep.

Thus we see the Mighty Conqueror  
is himself conquered, and solemnly re-  
nouncing all Arbitrary Will and  
Power, submits his Will to be regula-  
ted and governed by Justice, and the  
ancient Rights of the English Men.

Besides that, the Laws that were  
continued and confirmed, were the  
old Saxon Laws, and the Additional  
Laws were made for the Benefit and  
Advantage of the English, not *Normans*.  
And those Laws of Saint *Ed-*  
*ward*, which the English were so fond  
of, this *William* solemnly swore, be-  
fore God, Angels, and Men, for ever  
inviolably to keep and observe.

But before I leave this your Second  
Question, Sir, I think it will be no  
ways improper to give you the signi-  
fication

fication of the word **Conquest**, and in what sence Historians, and learned Antiquaries have understood it.

1. *Matthew Paris* hath it thus, *Rex Angliæ ex Conquestu*, *Edicatur tamen*, *quod beatus Edwardus*, *eo quod herede caruit*, *Regnum legavit Willielmo Bastardo Duci Normannorum.* *Mar. Paris. fol. 941.*

2. *Sir Henry Spelman* in his Glossary, says, *Willielmus Primus Conquestor dicitur*, *quia Angliam conquistavit*, *id est*, *acquisivit*, *purchased*, *non quod subegit*, not that he subdued it. *Spelm. Gloss. tit. Conquestus. fol. 145.*

3. *Sir John Skene*, *Clark of the Register Council*, and *Rolls*, to *King James* in *Scotland*, in his Book, *De Verborum significatione*, tells us, That **Conquestus** signifies *Lands quhilk ony Person acquiris*, and *possessis*, *privato jure*, *vel singulari titulo*, *veluti donatione*, *vel singulari aliquo contractu.* *Skene. p. 39.*

4. And it seems to me not improbable; that the Title of *Conqueror*, rather than of *Victor*, was assumed by him, as being a word more mild, and originally signifying, as it does in *Scotland*,



Mr. Skene de  
Verborum sig-  
nific. verbo  
Conquestus.

Scotland, a Purchaser; which is, he that cometh to a real Estate, not by hereditary Descent, but by Bargain or Gift, &c. *Conquestus dicitur ratione primi Conquestoris, & cum transmittitur ad ejus heredem, exuit naturam Conquestus, & induit naturam Hereditatis.*

5. And that the word *Conquestus* did signify what the Historians say it did, we have Records to justify their Exposition, whereof I shall produce one, and that is above 480 Years ago. It says, *Robertus Filius Nigelli petit versus Richardum Battail Capitale Messuagium, &c. Ricardus venit & dicit quod pater, &c. fuit persona Ecclesie de Conquestu suo, &c. & dedit, &c. Placita de terris. Mich. 2. Johan. penes Camerar. Scaccar. remanen.* Now surely none can make the word *Conquestus*, here, to signify that the Father of Battel got the Advowson by Conquest, in our modern sense, but that he had it by his own purchase.

6. Sir Roger Twisden, in his Preface before King William's Laws, and he well enough understood the full meaning of the word *Conquestus*, says,

says, *Non existimo Willielmum primum de omnium Anglorum terris ad voluntatem suam & pro libitu in modum absolute dominationis disposuisse.* I do not in the least imagine, that William the First had the disposition of the Lands of all the English, according to his own Arbitrary Will and Pleasure, and after the manner of an Absolute Conquest.

Apud Lambardum. in Prefac. 1556

Now, Sir, by these several Explanations of the word, I think it is very obvious to any impartial Considerer, that, (however we construe and interpret it now, being either urged by Flattery or Interest so to do) it never did, even in that Age it self, import or signifie such an absolute and entire Conquest, as to carry along with it the enslaving of the whole English Nation, after William's Victory over Harold. Nay, tho' every Body will acknowledge, that this Harold came to the Imperial Crown of England \* by a general Election of the Chief of the Nation, yet there is an Ancient Author calls him Conqueror; And what then shall we think of the signification of the word, but that it was an Ac-

\* à totius Anglie Primatibus ad Regale Culmen electus. Abrev. Chron. Rad. de diceto. fo. 479.

D

quest

MS. ex Bib.  
Domini Wild  
defuncti.

quest at most, and that too by the  
Voice and Suffrage of the People ;  
saith he, *Heraldus strenuus Dux Con-*  
*questor Anglie.*

But, Sir, this is not all ; I must beg  
your patience and leave, for the better  
illustration of the word *Conquest*; and  
to disabuse the World in this Point,  
to present you with this following

### Summary SERIES

Of the Stiles of our several descen-  
dant Kings, from this *William* the  
First, inclusively, to the Great King  
*Edward* the Third ; and therein make  
an Observation, which perhaps as yet  
hath scarcely been taken notice of.

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The

# The Stiles of the Kings.

1. **W**illielmus Rex Anglorum, &c. *W. 1.*  
*and sometimes* Willielmus  
 Cognomento Bastardus Rex Anglo-  
 rum, &c.
2. Willielmus Rufus Rex Anglo- *W. 1.*  
 rum, &c. *and sometimes* Willielmus  
 Dei Gratia Rex Anglorum, &c.
3. Henricus Rex Anglorum, &c. *H. 1.*  
*sometimes* Henricus Willielmi Magni  
 Regis Filius.
4. Stephanus Rex Anglorum, &c. *Steph.*  
*sometimes* Stephanus Dei Gratia Rex  
 Anglorum, &c.
5. Henricus *omitted* Dei Gratia, *and* *H. 2.*  
*used this Stile,* Henricus Rex An-  
 gliæ, &c. *and sometimes* Henricus  
 Filius Imperatricis Matildæ Rex  
 Angliæ, &c.
6. Richardus Rex Angliæ, &c. *R. 1.*

- John. 7. Johannes Rex Angliæ, &c. *and added this*, Dominus Hiberniæ.
- H. 3. 8. Henricus Filius Johannis Rex Angliæ, &c.
- E. 1. 9. Edwardus Rex Angliæ, &c.
- E. 2. 10. Edwardus Filius Edwardi primi, Rex Angliæ, &c.

And now we are come to the great *Epocha* of Time, when the Stile of our Kings altered. *Edward* the Third, in the beginning of his Reign, in several Records, writ himself, *Edwardus Filius Edwardi Filii Edwardi*, that is, *Edward*, the Son of *Edward* the Second, the Son of *Edward* the First. But this distinction not being well approved of, and having considered, that before the Conquest there had been two King *Edwards*, he in all Fines, and in general Records, writ himself, *Edwardus Rex Angliæ*, &c. *tertius post Conquestum*, which was done in the second Year of his Reign, *Anno Dom. 1328.* which Rule was followed by *Richard 2. Hen. 4. Hen. 5. Hen. 6.*



*Hen. 6.* and so to succeeding Kings downwards.

And, Sir, to give you a further proof, that King **William** did not Cancel and **Abolish** all the **English Laws**, nor change, as is so much affirmed, the whole Frame and Constitution of the Government, be pleased to hear the Judgment of Mr. *Selden*, and the Opinion of Sir *Winston Churchill*; and I hope they are such unquestionable Authorities, as may sufficiently balance, if not totally depress the fiercest of Gain-sayers.

I shall begin with the great and ever famous *Selden*, (for whose Memory, as truly deserving, I have the highest regards) and shall transcribe his words at large, which may not only serve for a good Solution to this your Second Question, but indeed may possibly fully satisfy you as to your other three.

His words are ;

‘The Laws of before, as well as of  
‘after the **Norman Conquest**, (as it is  
‘vulgarly called) are here gathered,  
‘and are perhaps equally observable,  
‘as the Rest, in the consequent of a

*Selden's Review of his History of Times. p. 482, 483, 484.*

[i] Vid. Quin-  
tilian. lib. 5.  
Institution.  
cap. 10. Athe.  
Gentil. de Ju-  
re belli. lib. 3.  
cap. 5. & Ho-  
roman illust.  
Quint. 5.

[k] Calvin's  
Can. fol. 17.b

[l] in H. 2.  
p. 347.

[m] MS lib. 2.  
p. 33. & 30. in  
Bibl. Cotton.

'general consecration of Tithes to the  
'Church in England. For neither  
'were the Laws formerly made, abo-  
'lish'd by that Conquest, altho' by  
'Law of [i] War, regularly all Rights  
'and Laws of the Place conquered, be  
'wholly subject to the Conqueror's  
'Will. For in this of the Norman,  
'not only the Conqueror's Will was  
'not declared, that the former Laws  
'should be abrogated, (and until such  
'Declaration, Laws remain in force,  
'by the Opinion of [k] some, in all  
'Conquests of Christians against Chri-  
'stians) but also the ancient and for-  
'mer Laws of the Kingdom were con-  
'firmed by him. For in his fourth  
'Year, by the Advice of his Baronage,  
'he summoned to London, omnes No-  
'biles, sapientes, & Lege sua eruditos,  
'ut eorum Leges & Consuetudines audi-  
'ret, as the words are of the Book of  
'Litchfield, and afterward confirmed  
'them, as is further also related by [l]  
'Roger of Hoveden. Those, Lege sua  
'eruditi, were common Lawyers of that  
'Time, as Godric and Alfwine were then  
'also, who are spoken of in the Book  
'of [m] Abingdom, to be, Legibus  
'Patriæ optime instituti, quibus tanta  
secula-

secularium facundia & præteritorum  
 memoria eventorum inerat, ut ceteri  
 circumquaq; facile eorum sententiam  
 ratam fuisset, quem edicerent, approbarent.  
 And these two, and divers other Com-  
 mon Lawyers then lived in the Abby  
 of Abingdon, Quorum collationi nemo  
 sapiens (says the Author) refragabatur,  
 quibus rem Ecclesia publicam tuentibus  
 ejus oblocutores elingues fiebant. You  
 must know, that in those days, every  
 Monk here in England, that would,  
 might remain so secular, that he  
 might get Mony for himself, pur-  
 chase, or receive by descent to his  
 own use. And therefore it was fit  
 enough for practising Lawyers to live  
 in Monasteries. But what had those  
 præteritorum memoria eventorum (that  
 is, Reports, and adjudged Cases of  
 the Saxon Times) availed in their  
 skill, if the former Laws had not  
 continued? More obvious Testimo-  
 nies to this purpose, are had out of  
 [u] Gervase of Tilbury, Ingulphus,  
 and others, and we here omit them.  
 But also, indeed, it was not to be  
 reputed a Conquest, or an Acquisi-  
 tion by right of War, (which might  
 have destroyed the former Laws) so

[u] Videbis  
 Coh. Præfat. ad  
 Relat. 3. & 8.  
 & si placet  
 Not. ad for-  
 tesc. p. 7, & 8.

' much as a violent recovering of the  
 ' Kingdom out of the hands of Rebels,  
 ' which withstood the Duke's pretence  
 ' of a lawful Title, claimed by the  
 ' Confessor's adoption, or designation  
 ' of him for his Successor; his near-  
 ' ness of Blood on the Mother's side,  
 ' not a little also aiding such a pretence  
 ' to a Crown. For the Confessor's Mo-  
 ' ther *Emme*, was Sister to *Richard* the  
 ' Second, Duke of *Normandy*, to  
 ' whom, *William* was Grand-child and  
 ' Heir. But these were only specious  
 ' Titles, and perhaps examined curi-  
 ' ously, neither of them were at that  
 ' time enough. And howsoever his  
 ' Conscience so moved him at his death,  
 ' that he profest he had got \* *England*  
 ' only by Blood and the Sword; yet  
 ' also by express Declaration in some  
 ' of his Patents, he before pretended  
 ' his Right from the Confessor's Gift.  
 ' [p] *In ore gladii, saith he, Regnum*  
 ' *adeptus sum Anglorum, devicto Ha-*  
 ' *raldo Rege, cum suis complicitibus, qui*  
 ' *mibi Regnum cum providentia Dei*  
 ' *destinatum, & beneficio concessionis*  
 ' *Domini, & cognati mei gloriosi Regis*  
 ' *Edwardi concessum conati sunt aufer-*  
 ' *re, &c.* And the Stories commonly  
 ' tell

\* *Historia Ca-*  
*donensis.*

[p] *Chart. Ec-*  
*cles. Westm in*  
*inspex. part 7.*  
*1. Ed. 4. m. 26.*  
*& vid. Camb.*  
*pag. 104.*

tells us, That the Confessor *Succes-*  
*sonem Angliæ ei dedit.* And although  
 Harold also pretended a Devise of  
 the Kingdom to himself made by the  
 Confessor *in extremis*, and urged al-  
 so that the Custom of *England* had  
 been from the time of *Augustine's*  
 coming hither, [*q*] *Donationem quam*  
*in ultimo sine quis fecerit, eam ratam*  
*haberi* ; and that the former Gift to  
 the *Norman*, and his own Oath for  
 establishment of it, were not of force,  
 because they were made, [*r*] *absque*  
*generali Senatus & Populi conventu &*  
*edicto* ; yet for his own part, he was  
 driven to put all upon the Fortune of  
 the Field, and so lost it. And the  
*Norman* with his Sword, and pre-  
 tence of the sufficiency and prece-  
 dence of the Gift made to him-  
 self, got the Crown, as if he had  
 been a lawful Successor to the Con-  
 fessor, and not an *Universal Conque-*  
*ror*. All this is plain out of the Sto-  
 ries, and justified infallibly by that of  
 the Titles of many common Persons  
 made to their Possessions in *England*,  
 after his Kingdom settled, upon the  
 possession of themselves or their An-  
 cestors, in time of the *Saxon* Kings,  
 especially

[*q*] MS. five  
 Autor Guil.  
 Pictav. five  
 quis alius, sit  
 in Bibl. Cot-  
 ton.

[*r*] *Malmesb.*  
 lib. 5. de Gest.  
 Regum p. 56. a.  
 alii in Will. 1.  
 & videfis *Mat.*  
*Paris* in Hen.  
 3. p. 1257. E-  
 dit. London.



' especially of the Confessor. But this  
 ' was always in case, where they by  
 ' whose possession the Title was made,  
 ' had not incurr'd Forfeiture by Rebel-  
 ' lion. Many such Titles are clearly  
 ' allowed in the Book of *Dooms-day*,  
 ' written in the Conqueror's Time:  
 ' One especially is noted by the most  
 ' learned *Camden* in his *Norfolk*. That,  
 ' as I remember, is touched in *Dooms-*  
 ' *day* also, but enough others are di-  
 ' spersed there which agree with it. How  
 ' could such Titles have held, if he had  
 ' made an absolute Conquest of Eng-  
 ' land, wherein an Universal Acquisi-  
 ' tion of all had been to the Conque-  
 ' roꝝ, and no Title could have been  
 ' derived, but only from or under him?  
 ' More might be brought to clear this,  
 ' but we add here only the judicious  
 ' Assertion of a great [r] Lawyer of  
 ' Edward the Third's Time; *Le Con-*  
 ' *queror, saith he, ne vient pas pur ou-*  
 ' *ster eux que avoient droiturell possession,*  
 ' *mes de ouster eux que de leur tort avoi-*  
 ' *ent occupie ascun terre en disheritance*  
 ' *del Roy, & son Corone.* It was spo-  
 ' ken upon an Objection made in a  
 ' Quo Warranto against the Abbot of  
 ' Peterborough, touching a Charter of  
 ' King

[r] *Shard.* in  
 cas. in itin.  
 temp. Ed. 3.  
 fol. 143. b.

King *Edgar*, which the King's  
Councel would have had void, be-  
cause, by the *Conquest* all Franchi-  
ses, they said, were devolved to the  
Crown. But, by the way, for that  
of his nearness of Blood, which could  
not but aid his other pretended Ti-  
tle; let it not seem meerly vain, in  
regard of his being a Bastard. There  
was good pretence for the help of  
that defect also. For, although the  
Laws of this Kingdom, and, I think  
of all other Civil States at this day,  
exclude Bastards (without a subse-  
quent Legitimation) from Inheri-  
tance; yet by the old Laws used by  
his Ancestors and Country-men, that  
is, by those of *Norway*, a Prince's  
Son gotten [t] on a Concubine bond  
or free, was equally inheritable as  
any other born in Wedlock; which  
was, I believe no small Reason, why  
he stood at first so much for the Laws  
of *Norway* to have been generally  
received in this Kingdom. And some  
Stories also which make mention of  
Duke *Robert* his getting *William* on  
that *Arlet* or *Arlec* (as she is sometimes  
written) say, That she was to him a  
good while *vice Uxoris*. So Henry  
of

[t] Vid. *Roger*  
*de Hoveden* in  
*Rich. I. fol.*  
425, & 347.

[u] In Bibl.  
Cotton.

of [u] Knyghton Abbot of Leiceſter :  
*Transiens* (ſaith he) *Robertus aliquan-*  
*do per Phaleriam Urbem Normaniæ, vi-*  
*dit puellam Arlec nomine Pelleparii Fi-*  
*liam, inter ceteras in Choreæ tripudian-*  
*tem nocte ſequentē illam ſibi conjunxit,*  
*quam vice Uxoris aliquamdiū tenens*  
*Willielmum ex ea generavit.* And he  
tells us alſo the common Tale of tear-  
ing her Smock. If ſhe were ſo his  
Concubine, or *Vice-conjux*, (between  
whom and a Wife, even the old [x]  
Imperials make no other difference  
but Honour and Dignity ; and by  
them alſo ſome kind of Inheritance is  
allowed to [y] ſuch Baſtards as are  
*Naturales liberi*, that is gotten on  
Concubines) ; it was much more rea-  
ſonable that her Son ſhould be repu-  
ted as Legitimate, than that the Son  
of every ſingle Woman, bond or  
free, whether Concubine or no, ſhould  
be ſo, as the Laws of *Norway* allow.  
And when he had inherited his Duke-  
dom, he made, doubtleſs, no que-  
ſtion, but that his Blood was as good  
in regard of all other Inheritances,  
that might by any colour be derived  
through it. And therefore *William*  
of *Malmſbury* well ſtiles him *proximè*  
*con-*

[x] Fide Le-  
gat. 3. L. Item  
Legato 49. S. 4

[y] Authent.  
89. c. 12. dif-  
cretis igitur,  
&c.

' *consanguineus* also to the Confessor, as  
 ' he was indeed on the Mother's side.  
 ' And those [z] of the Posterity of  
 ' Edward Son to Iron-side, were then  
 ' so excluded or neglected, that their  
 ' nearness on the Father's side could  
 ' not prevent him. You may see the  
 ' common Stories of them. But where-  
 ' as that excellent [a] Lawyer Littleton  
 ' says, That William the Conqueror  
 ' was called a Bastard, because he was  
 ' born before Marriage had between his  
 ' Father and Mother, and that after he  
 ' was born they were married, (which  
 ' indeed by the [b] Imperials, and by  
 ' the general Law of [c] France, would  
 ' have made him wholly legitimate) ;  
 ' I doubt he had but little or no ground  
 ' to justify it. Had he been so legiti-  
 ' mate, it is not likely he should have  
 ' been stiled so commonly and anci-  
 ' ently *Bastardus* ; which Name, even  
 ' in his [d] own Charters he sometimes  
 ' used with *cognomento* ; as also the Ba-  
 ' stards of the old Philip Duke of Bur-  
 ' gundy were wont to do ; although of  
 ' later Time it be reputed as a Name  
 ' of dishonour ; and the *actio injuria-*  
 ' *rum*, or an Action upon the Case lies  
 ' where-ever it be falsely objected, as  
 ' some

[z] Videfis  
*Malmsh. de*  
*Gest. Reg.*  
*lib. 2. fol 52.*

[a] 18. E. 4.  
*fol. 30. d.*

[b] C. tit. de  
*Nat. lib. c.*  
*eum quis 10,*  
*&c.*

[c] Videfis  
*Bacquet de*  
*Domaino du*  
*fr-tract. du*  
*Bastardise.*  
*c. 9, &c.*

[d] Apud  
*Cambden in*  
*Richmondia.*

[e] Videfis  
Pont. Heute-  
rum de liberis  
Natural, c. 12.

‘some will [e] have it. But these  
‘things prove enough, that this *Wil-*  
‘*liam* seized the Crown of *England*,  
‘not as conquered, but by pretence of  
‘Gift or Adoption, aided and confir-  
‘med by nearness of Blood; and so the  
‘*Saxon* Laws formerly in force could  
‘not but continue: And such of them as  
‘are now abrogated, were not at all  
‘abrogated by his Conquest, but ei-  
‘ther by the Parliaments or Ordinan-  
‘ces of his Time, and of his Succes-  
‘sors, or else by non-usage or contra-  
‘ry Custom.

Surely then none can believe, that  
*William* claimed *only* by the Sword,  
and made an absolute Conquest; or  
that he abolished all the old *Saxon*  
*Laws*, and constituted a new Frame  
and Systeme of Government, entirely  
for the Interest of his *Normans*, and  
to the slavery and ruin of the whole  
*English*; nor can any one, me-thinks,  
after this, categorically attest that there  
were no *English* Men in the Common  
Council of the whole Kingdom; or  
that the *English* had neither Estates nor  
Fortunes left; and that therefore it  
were of no great matter and conse-  
quence to them, by what Law, Right,  
or



or Property, other Men held their Estates.

But not to dwell upon the great Authority of this Learned Man, we will now hear what Sir *Winston Churchill* can inform us as to your Second Question; *Whether the Laws were totally abolished, and a New Government set up, according to the Arbitrary Will and Pleasure of this Norman Conqueror?*

And thus he writes, in his Book dedicated to his present Majesty.

‘Duke *William*, better known to us here by the Name of *the Conqueror*, who with like Confidence, and not unlike Injustice, (as *Rollo* did *Normandy*, the seventh in Descent, from whom was this Duke) invaded *England*, pretending a Donation of the Sovereignty from his near Kinsman King *Edward* the Confessor, confirmed, as he alledged, by his last Will and Testament, in the presence of most of the *English* Nobility. But what we allow to the Courage, we must take from the Wisdom of the *English*; that being subdued, they

Sir *Winst.*  
*Churchill's*  
*Divi Britannici.*  
*fol. 189.*

Id. *fo. 190.*

‘con-

‘ continued *nescia vinci*, vexing the  
‘ Conqueror, after they had submitted  
‘ to him, by such continual Revolts,  
‘ as suffered him not to sheath his  
‘ Sword all his Reign; or if he did,  
‘ urged him to continue still so suspiti-  
‘ ous of their Loyalty, that he was  
‘ forced always to keep his hand upon  
‘ the Hilt, ready to draw it forth, ha-  
‘ ving not leasure to intend what was  
‘ before established, much less to esta-  
‘ blish what he before intended: So  
‘ that they put upon him a kind of ne-  
‘ cessity of being a Tyrant, to make  
‘ good his being a King: Yet such was  
‘ the moderation of his mind, that he  
‘ chose rather to bind them stricter to  
‘ him by the old Laws, than to gall  
‘ them with any New, guarding his  
‘ Prerogative within that Citadel of  
‘ the *Burrough Law* (as they called it)  
‘ from whence, as often as they began  
‘ to mutiny, he battered them with  
‘ their own Ordnance, and so made  
‘ them Parties to their own wrong;  
‘ and however some that designed to  
‘ preoccupate the Grace of Servitude,  
‘ gave him the ungrateful Title of *Con-*  
‘ *queror*, which he esteemed the greatest  
‘ misfortune his good Fortune had  
‘ brought

brought upon him) thereby to pro-  
claim his **Power** to be as boundless as  
his **Will**; which they took to be a-  
bove all Limitation or Contradiction;  
yet we find he suffered himself to be  
so far conquered by them, that in-  
stead of giving to, he took the Law  
from them, and contentedly bound  
himself up by those, which they called  
**St. Edward's Laws**; which being an  
abbreviation of the great Tripple  
Code of *Danike, Merke, and West-*  
*Sexe Laws*, was such a form of Com-  
bination, as he himself could not de-  
fire to introduce a better; and if  
any thing look'd like **Absolute**, 'twas  
his disarming them, when he found  
them thus **Law-bound** hand and  
foot.

From this Authority, Sir, I think;  
it is very plain and obvious, That

- I. Here was no **Absolute Conquest**.
- II. That neither were all the **Saxon**  
**Laws cancelled and abolished**, by  
the coming in of this **Conqueror**.

E

I. That

I. That here was no Absolute Conquest; because,

1. Tho' here was an invading *England*, yet it was upon pretence of a *Donation of the Sovereignty from Edward the Confessor*, confirmed by his last Will, and that in the presence of most of the *English Nobility*. And so it was only an endeavour to get his own upon the Claim of an alledged just Title; which shewed he had, at least, more reason to demand, than *Harold*, who, at best, was an Usurper to detain the Crown: And so the Quarrel to be more Personal than National.

2. The Conquest could not be Absolute, for tho' he was, by a happy success over *Harold*, possessor of the *English Throne*; yet saith my Author, The Nation continued, *nescia vinci*; so that whenever he was Tyrannical and Arbitrary, they were continually vexing him with their Revolts.

3. This

3. This Conquest could not be absolute, because then the English must have been perfect Slaves and Vassals to his uncontroulable Beck; but (alas!) here Sir *Winston* tells you, the *Norman Conqueror* could find them no such easy Beasts of Burthen, their Necks would not bear the Yokes of his Severity; for they were several times up in Arms against him, and that *after they had submitted to him*: so that at most this could be but a submission upon terms.
4. He was so far from being in love with the gawdy name of *Conqueror*, that when some, that *designed to preoccupate the Grace of Servitude*, gave him that ungrateful Title, he esteemed it the greatest misfortune his good Fortune had brought upon him. And,
5. The Conquest surely could not be absolute, for then it would have been very idle and ridiculous for any one to say, what Sir *Winston*, no doubt, but upon good and mature consideration, hath thought fit to say of him, that *if any thing look'd like absolute*;



lute ; and hereby you may plainly take notice, that he seems to wonder how any Man can pretend to make him an absolute Conqueror, when he could hardly find so much as *any thing* to look like it. But,

II. I shall observe to you, that neither were all the Saxon Laws cancelled and abolished by the coming in of this Conqueror.

1. If King *William* might have done despotically whatsoever he had a mind to, then what necessity was there for *such a moderation of his Mind*, as the Author hints to us?
2. Because he found the People were not to be galled with any *New*, he chose rather (but it was a choice upon Necessity) to bind them stricter to him by the *Old Laws*; that is, in plain down-right English, they would not yield to him, nor to his Government, unless he resolved to circumscribe his ruling of them, within the bounds of the good *Old Laws*, in which  
\* they

they were born and bred ; and make his French and Normans come over and buckle to them.

3. *He suffered himself to be so far conquered by them, as to let them have their Old Laws ; and it was with a kind of good satisfaction too : For,*

4. *The Book tells you, He contentedly bound himself up by those which they called St. Edward's Laws : And was there not, do ye think, very good Reason for his so doing ? when thereby,*

5. *He understood at length, that it was a guarding his Prerogative, to keep within that Cittadel of the Burrough Law.*

6. *And lastly, We cannot rationally think he would, after he had thereby thoroughly looked into them, cancel and abolish them ; since those Laws were such, as, it is said, he himself could not desire to introduce a better.*

I hope, Sir, all these Deductions arise naturally from the words themselves, without any force or strain upon the sense ; and what I have said,

may be sufficient to convince you, that King William still kept to the Saxon Laws, and did not change the whole Frame and Constitution of the Government; as, you say, is very strenuously, and with heat, asserted by several of our Modern Authors.

I shall yet make bold with your Patience, Sir, and shew you what *Florentius Wigorniensis*, (a famous Historian in King Stephen's Time) and *Brompton* from him, say upon this Point, and so conclude my Argument.

*Floren. Wig.  
fol. 650.*

*Henricus primus omnes malas consuetudines & injustas exactiones (quibus Regnum Angliæ injuste opprimebatur) abstulit, pacem firmam in toto Regno suo posuit, & teneri præcepit. Legem Regis Edwardi omnibus in commune reddidit, cum illis emendationibus, quibus Pater suus illam emendavit.*

*In Hen. 1.  
fol. 297, 298.*

*Brompton's words are the same, and therefore I shall content my self with only referring you to the Book, without repeating them to you. And, Sir, from hence we may learn,*

I. That

1. That this King *Henry's* Father, *William* the First, was so far from cancelling and abolishing *K. Edward's* Laws, that he made them to be the Common standing Laws of the Land, to be equally and inviolably observed as well by the *Normans* as the *English*, for he says, *omnibus eam in commune reddidit*; unless you will understand the word *Omnibus* to be a particular Universal, and so only to include the *Normans*: And if so, then it follows likewise, That instead of the *Normans* giving to the *English* their Laws, the *English* Laws were imposed upon the *Normans*.

2. And whereas there were, 'tis confest, some *Additional* Laws made in his Time, yet you may plainly observe hence, that they were grounded upon, and but a better Improvement and Melioration of the *Confessor's* Laws; and they were for the Sake, Benefit, and Advantage of the *English*, as you will find hereafter.

3. Henry the First, Son to this Conqueror William, took away omnes malas consuetudines & injustas exactiones, &c. by which England had been sorely oppressed, under his Brother William Rufus, and restored the English to their former Rights and Liberties; and he renewed and confirmed the Ancient Saxon Laws, as his Father had done before him, as it is well noted in the continuation of the History of Bede, In Concilio peritorum & proborum virorum Regni Anglie.

Bede Histor.  
lib. 3. cap. 30.  
fol. 347.

4. But if there had been no Freemen but the Normans; if the Normans had all the Estates of the English given them; if there were none but Normans in the Common Councils of the Kingdom; how is it possible to be supposed, by any that will allow themselves the free use of their Reason, that Henry the First would ever make such a Grant; or, if he did, that the Normans would ever submit to it; or (what



(what is much more unlikely) give their consent to **out** themselves of all . their new-gotten Possessions, and reduce themselves back to this notorious *Dilemma*, viz. either to live **Vassals** and **Slaves** under the **English**, or else *vertere solum*, return to **Normandy**, from whence they came.

There is one thing more which I cannot but mention, and that is, The inconsiderateness of those Men, who so mightily cry up the **absolute Conquest** of **William the First** over the **English**, as if they were utterly broken and crushed, and all their **Laws** and **Customs destroyed**; when, as it is demonstrably manifest, that at the Time of **Robert** and his **Normans**, **Treason** and **Conspiracy** against **William Rufus** then King, and his Brother, to cut off him, and make **Robert** King in his room; I say, then the Interest of the **English** was so great and powerful, that it kept the **Crown** upon **Rufus's** Head, maugre all the Power of the **Normans**, who universally joined with **Robert**.

But, Sir, now I will consider the import of your next Question.

The

Sim. Dunelm.  
An. 1088. fol.  
214. Angli e-  
um fideliter  
juvabant.

---

The Third Question.

The Anon-  
ymous Author  
against Mr.  
Petyt. p. 43.

III. Whether it be true, That the  
English had neither Estates  
nor Fortunes left, but all was  
divided between the King and  
his Normans ?

THOUGH it be confessed, that this  
first William obtained the Impe-  
rial Crown of England ; yet I think  
I have clearly made it out to you, Sir,  
that it was by a *Reception upon Terms*,  
and not by Right of Conquest ; and  
it is no less obvious, that the Laws in  
general, which were, after such his  
Acquisition, ratified and confirmed,  
and which continued in full force and  
power, were the old Saxon Laws ;  
and though it cannot be denied, but  
that he did introduce some new Laws  
of his own, yet those, *quas constitui-*  
*mus*, you have heard, were made, *ad*  
*utilitatem Anglorum*, for the Benefit  
and

and Advantage of the English, without the least mention either of the French or Normans. And observable too it is, that those Laws were made *per Commune Concilium totius Regni. Apud Lambard. inter Leges Guliel. primi, fol. 170. de Statut. 55.*

I. And if so, Sir, me-thinks this seems as one strong Argument, that the English could not have all their Estates & Fortunes violently ravished from them; nor the King and his Normans, at their coming in, could not absolutely sweep away all the Stakes, because the good Old Law was still in its full being and virtue; \* which was the Metwand and Measure to try the Causes of the Subjects; and, † by which, saith the wise King James, the People's security of Lands, Livings, and Privileges, were preserved and maintained; and, which also is, \* the Inheritance of every Subject, and the only security he can have for his Life or Estate. And then they could not lose all they had at this rate, but it must be by a manifest wrong to the Priviledg, as well as well-being of the People; and, no doubt, if the Law had its due course,

\* Co. 12. Re. port. fol. 65.

† In his first Speech to his first Parliam. in Engl. Stat. 1. Jac. c. 2. fol. 1157.

\* K. Charl. 1. Declaration to all his Loving Subjects published with the Advice of his Privy Council. Exact Collect. &c. p 28.

as

as I have made that plain it had, but that their **Native Rights** were easily recoverable; and the ravaging **Nor-  
mans** could not keep them in spite of all Justice; for that were a total abolishing of the Law.

2. But in the next place, Sir, I make no question but that I shall convince you, that the **English**, at least those who lived in Peace before, and at his coming to the possession of the **English** Throne, did quietly and peaceably enjoy their Inheritances; and their Titles and Claims to them from their **Saxon Ancestors**, were held good and allowed; which, to be sure, they never could have done, had this Kingdom received such an **universal Change** and **Revolution**, as so many of our late Learned Authors would needs have us firmly to believe.

Sir Ric. Baker's  
Chronic. fol. 23.

Saith Sir *Richard Baker*, in his Chronicle of this King's Life and Reign;  
' Though he hath had the Name of  
' **Conqueror**, yet he used not the King-  
' dom as gotten by **Conquest**; for he  
' took no Man's living from him, nor  
' dispossessed any of their Goods, but  
' such

'such only, whose demerit made them  
'unworthy to hold them, as appears  
'by his Act to one *Warren a Norman*,  
'to whom he had given the Castle of  
'*Sherborne in Norfolk*. The Story is  
faithfully this, as you may find in  
*Cambden's Britannia*; The King, it  
seems, had given away *Sherborne* to  
*Warren a Norman*, and one that was  
his great Favourite; which *Edwinus*  
*de Sherborne* perceiving, who was the  
true Owner of the Castle, and an  
English Man, demands, before the  
King, his right, in open Court, tells  
him it did, *de jure*, belong to him,  
upon this Reason of Law, for that he  
never had took up Arms against the  
King, either before his coming in, or  
since; whereupon the King, *vinculo*  
*juramenti astrictus*, gave Judgment of  
Right against the *Norman*, and *Sher-*  
*borne* recovered the Lordship.

*Mr. Petyt's*  
*Ancient Right*  
*of the Com-*  
*mons of Eng-*  
*land asserted.*  
*Pref. p. 24.*

Sir *Henry Spelman* tells you the Sto-  
ry, which he hath taken out of an  
Ancient Manuscript, concerning the  
Family of the *Sharborns*, thus; *Edwi-*  
*nus de Sharborne*, & *quidam alii*, qui  
*ejecti fuerunt è terris suis*, abierunt ad  
Conquestorem, & dixerunt ei, quod  
nunquam

*Spelm. Gloss.*  
*verbo Dren-*  
*ches. p. 184.*



*nunquam ante Conquestum, nec in Conquestu suo, nec post, fuerunt contra ipsum Regem in Consilio & Auxilio, sed tenuerunt se in pace. Et hoc parati sunt probare quomodo ipse Rex vellet ordinare. Per quod idem Rex fecit inquiri per totam Angliam si ita fuit, quod quidem probatum fuit: propter quod idem Rex præcepit, ut omnes illi qui sic tenuerunt se in pace in forma prædicta, quod ipsi, rehabèrent omnes terras & donationes suas adeo integrè & in pace ut unquam habuerunt, vel tenuerunt ante Conquestum suum. That is;*

*Edwin of Sharborn, and several others that were ejected out of their Estates and Possessions, went to the Conqueror, and told him, that they never either before, or in, or after the Conquest, were against him the said King, either by their Advice, or any other Aid, but kept themselves peaceably and quietly. And this they were ready to make out, which way soever the King pleased to appoint. Whereupon the said King ordered an Inquisition to be made throughout all England, whether it were so or no; which was plainly proved: Therefore he presently*

*com-*

‘commanded, that all those who so kept  
‘themselves peaceably in manner afore-  
‘said, as these had done, should be  
‘repossessed of all their Estates and  
‘Inheritances as fully, amply, and  
‘quietly, as ever they had or held them  
‘before his **Conquest**.

This is a Case so full to the Point,  
and so plain to every common Under-  
standing in its self, that it would be  
frivolous to make any deductions  
from it. I shall presume to repeat to  
you the words of a great and Learned  
Judg in the Reign of King *Edward*  
the Third, and give you his judicious  
Assertion of this Argument, (tho’ it  
be cited before in that of Mr. *Selden*)  
because it was agreed on as a main po-  
sitive Rule of Law ; and they are  
these ;

*Le Conqueror* (saith he) *ne vient*  
*pas pour ouster eux, qui avoient droitu-*  
*rell possession, mes de ouster eux que de*  
*leur tort avoient occupie ascun terre en des-*  
*heritance del Roy & son Couronne.* ‘The  
‘**Conqueror** came not to oust those  
‘who had a Right Possession, but to  
‘dispossess those, who, of their own  
‘wrong, had enjoyed any Land to  
‘the

*Johannes*  
*Shardelows*  
unus Justic. de  
Banco. Rot.  
Pat. 16. E. 3.  
Pars 1. m. 2.  
in *Dugdale's*  
*Chronica Se-*  
*ries annexed*  
*to his Origi-*  
*nes Juridicia-*  
*les. fol. 44.*

‘ the disherison of the King and his  
‘ Crown.

What shall we think after all this ?  
That notwithstanding, the *English* who  
had not been in Arms against *William*,  
had no Estates or Fortunes left, but all  
was divided between the King and his  
*Normans* ? Surely no, but just the  
contrary, that they did enjoy them  
in as full, peaceable, and quiet a man-  
ner as ever they did, before he came  
to be this high and mighty Conque-  
rer.

But again, let me give you, Sir, a-  
nother Instance to inforce the Truth  
of this Argument.

In the 14. *Rich. 2.* some 290 Years  
ago, there happened a memorable Suit  
between the King and the Prior of  
*Coventry*, in the *King's Bench*, the  
King demanding *Annuam Pensionem*  
*pro uno Cléricorum Regis*, as holding  
*de Domino Rege per Baroniam*.

Placita coram  
Rege Hill. An-  
no 14. R. 2.  
Rot. 50. War.  
vid. *Dodsworth*  
& *Dugdales*  
Monastic, An-  
glican. Vol. 1.  
fol. 305. Col. 1.

The Prior pleads, that he held *Pri-  
oratum pradiatum*, upon the founda-  
tion of *Leofric*, quondam *Comitis Ce-  
strie*, founded in the Time *Sancti*  
*Edwardi*

Edwardi Regis Angliæ, and produces the Charters in Court, and then conveys the Title of Descent, thus ;

*Ibidem* recitatur Charta ejusdem Regis Edwardi, quas Donationes & Concessionem diversi alii Reges confirmaverunt, & dicit quod postea per processum temporis nomen Abbatie prædictæ vertebatur in nomen Prioratus, eo quod Leofwinus ad tunc Abbas ibidem creatus fuit in Episcopum Cestriæ, & ordinavit per Assensum Monachorum ibidem quod Abbatia prædicta ex tunc foret Prioratus, & quod Superiores ejusdem Ecclesiæ forent Priores successive in perpetuum, & dicit quod de ipso Leofrico, quia obiit sine Hærede de corpore suo descendente, Advocatio Ecclesiæ prædictæ tempore Willielm' Conquest' Angliæ cuidam Hugoni Comiti Cestriæ, ut Consanguineo & hæredi, ipsius Leofrici, viz. Filio Ermilide sororis ejusdem Leofrici, & de ipso Hugone cuidam Richardo ut Filio & hæredi, & de ipso Richardo cuidam Ramulpho, ut Consanguineo & hæredi, viz. Filio Matildis Sororis prædicti Hugonis & de ipso Ramulpho cuidam Ramulpho ut Filio & Hæredi, & de ipso Ramulpho Filio Ramulphi, quia obiit sine Hærede

Jus Anglorum  
ab antiquo. p.  
16. in the Ad-  
dition, &c.

Not, This is  
the Hugh to  
whom it is im-  
agined by  
some, that Wil-  
liam gave all  
the Lands of  
the County of  
Chester.

de corpore suo descendente, Advocatio prædicta simul cum Comitatu Cestrie & Huntingdon, & aliis diversis Castris, Maneriis, terris & tenementis cum pertinentiis in Anglia & Wallia quibusdam Matilda, Mabillia, Cecilia & Margeria ut Sororibus & Heredibus prædicti Ranulphi, inter quas proprietia facta fuit de prædictis Comitatibus, Advocationibus & Castris, Maneriis, Terris & Tenementis cum pertinentiis supradictis. Et prædicta Advocatio, simul cum toto prædicto Comitatu Cestrie, cum pertinentiis allocata fuit prædictæ Matilde pro proparte sua in Allocationem diversorum aliorum Castrorum, Manneriorum, Terrarum & Tenementorum cum pertinentiis prædictis Mabillie, Cecilia & Margerie separatim allocatorum, & de ipsa Matilda descendebant prædicta Advocatio simul cum prædicto Comitatu Cestrie cum pertinentiis post proprietiam prædictam cuidam Johanni Scot ut Filio & heredi prædictæ Matildæ, qui quidem Johannes Scot Advocationem prædictam simul cum prædicto Comitatu Cestrie cum Pertinentiis dedit Henrico quondam Regi Angliæ Filio Regis Johannis & heredibus suis in perpetuum, &c. Prædictus Prior sine die.

From



From this great Record, Sir, I think it is clear and evident ;

1. That *Leofric* was Earl of *Chester* in the Reign of *Edward* the Confessor, and that he dying without Issue, the Earldom of *Chester*, and the Right of Advowson of the Priory of *Coven-*  
*try*, *tempore Willielmi Conquestoris Angliæ*, descended to *Hugh* Earl of *Chester*, *ut Consanguineo & Heredi ipsius Leofrici*, as being the Son of *Erminelde*, Sister of *Leofric* ; and that from that *Hugh*, descended *Richard* his Son and Heir ; and from *Richard* descended *Ranulf*, as *consanguineus & heres*, that is the Son of *Maud*, Sister of *Hugh* ; and from that *Ranulph* another *Ranulph* his Son and Heir, &c.

2. Now if *William*, when he came in, made an absolute Conquest, this Title had been impossible to have been maintained.

F 2

3. It

3. It appears further, That the Plea of the Prior was allowed; for the Record saith, *Prædictus Prior sine die.* And the Advowson aforesaid, *simul cum Comitatu Cestrie & Huntingdon, & aliis diversis Maneriis, Terris & Tementis, cum pertinentiis, &c.* did descend. And it is to be observed, that Judgment being given upon solemn Debate and Tryal, neither the Judges, nor the King's Counsel, so many hundred Years ago, as in the Age of *Richard* the Second, knew any thing of this new received Notion of an absolute Conquest. And again,

4. 'Tis yet further observable, that the Charter of *Leofric*, and the Title of the Prior had been confirmed, *per diversos alios Reges*, who must certainly have greater knowledg of the Nature of *William* the First his Conquest or Government, than any Man can pretend to in our Times.

But

But further, Sir, I will make bold with your Patience, and give you some few Instances, of the very many that I could, out of *Dooms-day Book*, to satisfy you, that there were many Proprietors of English Men, who had their Free-hold Estates, upon Titles paramount to any of the Conqueror's Donation. Those I shall take from that industrious and worthy Gentleman, Mr. *Attwood's Book*, intituled, *Jus Anglorum ab Antiquo*, where, in his excellent History of the Conquest; among others he hath these following,  
*Viz.*

*Jus Anglorum*  
*ab Antiquo.*  
*p. 80, 81, 83,*  
*87, 89, 90.*

Surrey.

1. *Hugo de Port* was a very great Proprietor, as may be found under the Title, *Terra Hugonis de Port*: Many Mannors he had; and as appears in *Hampshire*, he had at least two Mannors, *Cerdeford* and *Eschetune*, from his Ancestors, before *William's Entrance*.

*Pa. 80.*  
*He was not*  
*Tainus Regis.*

And even this is a ground to believe, he was a great Man, that he had a Sir-name, or Addition:

Camb. Rem.  
p. 136.

Because, if we believe the Great Antiquary, Mr. *Cambden*, *Sir-names were not settled among the Common People fully, till about the Time of Edw. 2.*

Ipsē Comes  
tenuit Estre-  
ham. T.R.E.

2. The Earl of *Moreton*, a very powerful *Prince*, as I may call him, held *Estreham* in *Tenrige* Hundred, in the Time of King *Edward*. He enjoyed several other great Possessions of the Gift of King *William*. I doubt not indeed but he was a *Roman* born, yet he was here before the entrance of the *Norman* Duke, and might, not improbably, be in Favour with King *Edward the Confessor*, who was all *Frenchified*. He, to be sure, had some Lands within the Kingdom of *England*, which he enjoyed not from *William's* Division.

Camb. Rem.  
p. 136.

Pag. 176.

Hamp

Hampshire.

3. *Ralph Mortimer* held several Possessions, some of which he had *Jure Hereditario*, from before the *Reputed Conquest*. *Ipsē Radulphus tenet Ordie* : This Mannor T. R. E. extra Ecclesiam emptum fuit, eo pacto & conventionē, ut post tertium heredem cum omni pecunia Manerium Ecclesia Sancti Petri de Episcopatu recuperet; nunc qui tenet Radulphus, est tertius heres.

Dorsetshire.

Dorsete.

4. Ten *Thains* hold *Chimedecome*. *Ipsi tenuerunt T. R. E. pro. i. Manerio*. Omnes qui has terras tenuerunt T. R. E. potuerunt ire ad quem Dominum volebant.

Staffordshire.

Statfordscire

5. *Alric* holds *Stagrisgeshowe*. } And  
*Afwold* holds *Chrochesdene*. } *Ipsi has Terras tenuerunt T. R. E.*  
 14. more hold Lands of Titles,  
 Prior to King *William's*, amongst  
 F 4 which,



which, the Earls, *Hugh de Ferriers*, and *Alberic de Vere*; the first of which held *St. Warburgh of Chester*, in the Time of the Confessor.

6. And lastly; *Uæred* held several Lands in the Time of King Edward, as in the Time of *William the First*. Besides, several dispossessed, who have their Titles allowed.

I think these six Instances are enough (referring the more curious to *Mr. Attwood's* Book before mentioned, or to the great Survey it self) to bear out my Assertion, 'That the English had Estates and Fortunes still in their hands, which they held in King Edward's Time, and did not derive under King *William's* Title.

Having now given you these six Individuals, I shall offer you three more, and they are from the Charters of King *William*; the one to the *Dean of St. Pauls*, confirming to him the Lands, &c. belonging to that Church, and this was upon the day of his Coronation

zonation too : The other is to the Ab-  
by of *Westminster* : and the third to  
the *City of London*, granting to them  
the *Liberties* and *Franchises* which they  
enjoyed in the Time of *Edward the*  
*Confessor*.

To begin with that made to the  
*Dean of St. Pauls*.

1. *Ego Willielmus Dei Gratia Rex*  
*Anglorum, unà cum Mathilda Regi-*  
*nà, Principibusq; meis, coram con-*  
*ventu Sacerdotum Dei, Reverendis*  
*scilicet Archiepiscopis Aldredo &*  
*Stigando, caterisq; Episcopis &*  
*Abbatibus hujus Patrie, terras Mo-*  
*nasterii Sancti Pauli, quæ in tem-*  
*pore Antecessorum meorum à qui-*  
*bilibet hominibus ablata fuerant,*  
*& injustè detentæ, omnes in die*  
*primi Diadematis & Coronationis*  
*meæ, Deo, ejusq; Apostolo Paulo*  
*in Landonia, & eorum servitori-*  
*bus in perpetuùm possidendas re-*  
*stitui, & eas ex omni parte libe-*  
*ras esse concessi.*

Carta Regis  
Williel. Con-  
questor. in Ap-  
pendice in Hi-  
stor. Eccles.  
Cathedr. S.  
Pauli. By Sir  
Will. Dugdale.  
fol. 190.

2. Will-

Cartæ. Antiq.  
C.C. n. 31.

2. William the First gives the Church of Westminster, *decimam de Wic de eadem parte que ad me pertinebat, atq; iterum reddidi eandem partem eis injustè ablatam quàm Rex Edwardus antea dederat.*

So that we see, that as on the one hand William the First gave them the *Tithes* of that part which was his right; so likewise he restored the *Tithes* of that part which was unjustly taken from that *Church*, and which Edward the Confessor had before given. And no Conquest was here pretended; but the Precedent proves the quite contrary, *viz.* that there was none insisted on.

3. And now I come to that respecting the City of London.

\* Porteregravan port-grave. Saxonice.  
Hollinshead's  
3d Vol. fol. 15.  
2. Col. n. 21,

'Williem King grets Williem Bis-  
'ceop and Godfred \* Porterefan,  
'& ealle ya Burghwarn binnen  
'London Frencise & Englise  
'frendlice, & Ic kiden eoy, yeet  
'Ic wille yeet git ben ealra weera  
'la gayweord, ye get weeran on  
Eadwerds

‘Eadwerds daege Kings. And Ic  
 ‘wille yeet aelc child by his Fa-  
 ‘der yrfsnme, aefter his Faders  
 ‘daege. And Ic nelle ge Wolian,  
 ‘yeet adnig man eoy aenis wrang  
 ‘beode. God eoy heald.

*Willielmus Rex Salutat Willielmum  
 Episcopum & Goffridum Porte-  
 gresium, & omnem Burghware in-  
 fra London Frans. & Angl. ami-  
 cabiliter. Et vobis notum facio,  
 quod ego volo quod vos sitis omni  
 lege illa digni qua fuistis Edwardi  
 diebus Regis. Et volo quod omnis  
 Puer sit Patris sui heres post diem  
 Patris sui. Et ego nolo pati quod  
 aliquis homo aliquam injuriam vobis  
 inferat. Deus vos salvet.*

Englified in Stow's Survey of Lon-  
 don, thus:

*Stow's Survey  
 of London.  
 fol. 740.*

‘William King grete William Bishop  
 ‘and Godfrey Porters and al the  
 ‘Burgeis within London Frensh  
 ‘and *Englisch*. And I grant you  
 ‘that I wyll that yee be all your  
 ‘Lawe worth, that ye were in  
 ‘Edwardis dayes the King. And  
 ‘I wyl that ich Childe be his  
 ‘Faders

'Faders Eyer. And I nyl suffur,  
'that ony Man you any wrongys  
'beed. And God you kepe.

Now 'tis evident from this Charter;

1. That it was made, immediately upon, or after, the Coronation of William; because, you see, he styles himself King.
2. This may seem to *justify*, not only what the *Historians*, who lived nearest his Time, (as *Pictaviensis*, &c.) but what his own Laws do likewise declare, *viz.* That he was crowned King by compact with the *English*, and at the same time swore inviolably to observe King Edwards Laws, which he confirmed to them.
3. With this further, That he denounced a severe Prohibition, that no Man should offer any affront, or do any wrong to the Citizens of London.
4. And for a compleat assurance of all this his Love and Kindness to the



the City, he concludes with a Prayer to Heaven, That God would keep and bless them.

But by the way give me leave to shew you (though I think likewise it does not a little contribute to the strength and validity of my Argument) the Greatness and Power of the City of London in those early Times, I shall transcribe the words of a Learned Writer concerning it, and so leave it to your more serious consideration.

*William Stephanides*, a Monk of Canterbury, born (as *Stow* saith in his fore-cited Book) of Worshipful Parents in the City of London, and who lived in the Reign of King *Stephen*, in his description of it, hath these words.

*Stephanid. Descriptio Nobilissimæ Civitatis Londoniæ, in Stow's Survey, &c. fol. 704. de situ ejusdem.*

*Inter Nobiles Urbes Orbis quas fama celebrat, Civitas Londonia, Regni Anglorum sedes una est, quæ famam suâ latius diffundit; opes & merces longius transmittit, caput altius extollit. Fælix est æeris salubritate, Christianâ Religione, firmitate munitionum, naturâ situs, honore*

honore Civium, pudicitia matronali, ludis  
etiã quã jucunda, & Nobilium sæ-  
cunda virorum.

Id. fol. 705.

Urbs ista viris est honorata, armis de-  
corata, multo habitatore populoſa, ut tem-  
pore Bellicæ cladis ſub Rege Stephano bello  
apti, ex eã exeuntes oſtentatui, haberen-  
tur 20000 Armatorum Equitum, 60 mil-  
le Peditum aſtimarentur. Cives Lon-  
doniæ ubicunq; locorum præ omnibus aliis  
Civibus ornatu morum, veſtium & men-  
ſæ, locutione, ſpectabiles & noti haben-  
tur.

Which in English is thus;

‘Of all the celebrated Cities in  
‘the World, this of London is the Me-  
‘tropolis of England; a City of a  
‘very extenſive Fame in its ſelf, but  
‘much more honourable by the Na-  
‘tive Treafure and Commodities  
‘which ſhe exporteth. Happy is ſhe  
‘in the temperature of her Climate,  
‘in the ſoundneſs of her Doctrine;  
‘ſtrength of her Forts, agreeableneſs  
‘of her Situation; in the Credit and  
‘Reputation of her Citizens; the  
‘unblemish’d Chaſtity of the Female  
‘Sex; innocently pleaſant, even in  
‘her

her Recreations, and honoured with  
a numerous Train of Nobility.

The Grandeur of this City chiefly  
consists in the Properness and Valour  
of her Men; in the bravery of her  
Armour, the multitude of her In-  
habitants: so that in the fatal Wars  
in King Stephen's Reign, there ap-  
peared, on a Muster, 20000 Horse,  
and 60000 Foot, all armed Soul-  
diers. The Citizens of London are  
known and esteemed beyond all o-  
ther Persons, wheresoever they tra-  
vel, for their gentile Deportment,  
their good Apparel, their Table, and  
Discourse.

So that we see from hence, that in  
the Reign of King Stephen, who was  
Nephew to King William the First,  
(from whose Death, to King Stephen's  
Reign, there were not fifty Years)  
the City of London was very great  
and powerful; but had the Eng-  
lish Citizens been all destroyed, and  
had all their Estates and Fortunes  
been (as is so positively affirmed)  
taken away from them by William  
the First, it had been impossible, in  
so short a Time, for them to have ri-  
sen

sen again to that *degree of Fame and Renown* through all this part of the World, as the *Historian*, who was an *Eye-Witness* of it, so credibly assures us.

My next design is to shew you, That from the *General Direction* of the *Writs and Charters* in King *William* the First his Time, it is plainly demonstrable, that *William*, the pretended *Conqueror*, did not divide all the *Lands of England* amongst his *Norman* followers to hold of him.

Dugdal. *Hist.*  
of St. Pauls, in  
the Appendix.  
fol. 196:

1. W. Cyng gnet Ormund byrceop of  
Deapbyrig 7 Rob. of Eli. 7 Piebner of Val-  
loniis 7 ealle his rcingepevan 7 hir holban  
Fpenciſce, 7 Engliſce, fpenbliſce.

Id est;

Nota, Here are  
English She-  
riffs, and other  
English Offi-  
cers, as well as  
French.)

1. W. Rex Saluto Osmundum Episco-  
pum Saresburiensem, & Robertum de  
Ely, & Petrum de Valoniis, omnesque  
praefectos suos et fideles, Francos et Ang-  
los, amice.

2. Williem

2. Willem Cynȝ gnet mines b'pes ȝ *Chart. Antiq. I.*  
mind Eoples ȝ ealle minð ðegnes ȝ peneiȝre  
ȝ Engliſce.

3. Willem gret mines Biſhops, and *Here were*  
mind Eorles, and ealle mind Thegnes, *Engl. Thains.*  
Freneiffe and Engliſce. *Thani Appel-  
latione viri in-  
terdum Nobi-*

les, interdum liberæ Conditionis Homines, interdum Magiſtratus,  
arquo ſapenumero Miniſtri notantur. Gloſſ. in fin. *Lambard. de*  
piſſ. Angl. leg. fol. 223. Col. 1. tic. Thanus.

3. *W. Rex Anglorum O. Episcopo* *Monast. Angl.*  
*Sarisburiensi et L. Abbati Glastoniensi* *Vol. 1. fo. 183.*  
*et A. Vicecomiti omnibusq; Baronibus*  
*Francigenis et Anglis de Sumerſeta, et*  
*de Wiltunſcire, Salutem.*

4. *Willielmus Rex Angliæ Archie-* *Id. fol. 397. B.*  
*piſcopo T. Eboraci, et Juſticiariis et Vice-*  
*comitibus, et omnibus Baronibus & Fi-*  
*delibus ſuis, Francis et Anglis de Ebo-*  
*raciſcire, et de Carleoli, Salutem.*

5. *Willielmus Rex Anglorum Walte-* *Id. fol. 29.*  
*rio Vicecomiti, et omnibus Baronibus ſuis*  
*Francigenis, et Anglis de Comitatu de*  
*Gloceſtre, Salutem.*

G 6. Wil-



Id. ibid.

6. *Willielmus Dei Gratia Rex Anglorum, Fidelibus suis Francigenis et Anglis, Salutem.*

Id. ibid.

7. *Willielmus Rex Anglorum Episcopo de Suthsexa et Vicecomiti, et ceteris Baronibus suis Francigenis et Anglis, Salutem.*

Id. Vol. 2.  
fo. 845.

8. *Willielmus Rex Angliæ, G. Vicecom' et Baronibus suis de Caerleil, Salutem.*

Id. fol. 845.

9. *Willielmus Rex Angliæ Thome Archiepiscopo et Bertramo de Verdun, et Baronibus suis, Francis et Anglis de Everwicshire, Salutem.*

Cart. Antiq. N

10. *Henricus Rex Angliæ Richardo Episcopo London, et Vic' et Præposito, et omnibus Baronibus et Fidelibus suis, Francis et Anglis, de London et Middlesex, Salutem.*

Id. Ibid.

11. *Henricus Rex Angliæ Vic' et Baronibus London.*

Dugdal. Hist.  
of St. Pauls, in  
the Appendix.  
fol. 197.

12. *Henricus Dei Gratia Rex Angliæ, Archiepiscopis et Episcopis, et Comitibus Angliæ;*  
\*

*Anglia ; et Hugoni de Boclande, et omnibus Baronibus & fidelibus suis, Francie et Anglis, de Lundonia, et de Middlesexia, et de tota Anglia, Salutem.*

By these Writs and Charters, Sir, (though many more of the like nature might easily be given) I think, with submission, my Argument is firmly maintained; and the plain English of them all is, no more than this, That in William the first's Time there were English Barons as well as French Barons, in Somersetshire and Wiltshire; in York-shire and Carlisle; in Gloucestershire and in Sussex: and the direction of the Writs and Charters is equally given to them both, without any difference of Power or Authority mentioned; otherwise, than that the French Barons had the precedency of the English in those Writs and Charters: \* With what force of truth then can it be defended, That the Norman Nobility were at that time the only Nobility, I appeal to the World.

*\* As is asserted by the said Anonimus Author against Mr. Petyt, p. 151.*

But, I pray, now hear two Branches of his **MAGNA CHARTA**, or Great Charter, which he granted to the English, and they run thus ;

Apud Cl.  
Lambard. LL.  
Will. prim.  
fol. 170. c. 55.

1. *Volumus etiam ac firmiter præcipimus & concedimus, ut omnes liberi homines totius Monarchiæ Regni nostri prædicti, habeant & teneant terras suas, & possessiones suas, bene & in pace liberè AB OMNI EXACTIONE INJUSTA, & AB OMNI TALLAGIO ; ita quod nihil ab eis exigatur, vel capiatur, nisi SERVITIUM SUUM LIBERUM, quod de Jure nobis facere debent, & facere tenentur, & prout STATUTUM est eis, & illis à nobis datum et concessum JURE HÆREDITARIO in perpetuum, PER COMMUNE CONCILIUM TOTIUS REGNI NOSTRI prædicti.*

The Second Branch is ;

Id. c. 63.

2. *Hoc quoque præcipimus, ut OMNES HABEANT ET TENEANT LEGES EDWARDI REGIS in omnibus rebus, adactis hiis quas constituimus AD UTILITATEM ANGLORUM.*

\*

Sir,

Sir, I think by these two Branches, you may plainly see, King William when he came in, was so far from forcibly taking away the Lands and Possessions of the English, and sharing them among his Normans; that he doth, if possible, more strongly establish their Estates to them, by confirming the good and ancient Laws of Edward the Confessor, which were their best security of all they enjoyed before his entrance; and not only so, but by freeing them from all unjust Taxes and Exactions, excepting only their free Service, which of right was owing to him, and which they were to do, as it was agreed on by themselves, and granted by him to them by hereditary Right for ever, and that by the Common Council of the whole Kingdom; and this was done too wholly for the sake and benefit of the English.

I shall trouble you, Sir, with one more very memorable Record, as late as to the 26. Hen. 3. which shews, That from before the coming in of this Norman Conqueror, down to that

G 3

Time,

Time, the English had a Property continued to them; and so then this MIGHTY MAN of VICTORY did not govern them as an entire and absolute Conqueror, what-ever our late Writers have been pleased to publish to the World.

The words of the Record are;

*Pro Jacobo Archamgere.*

Communia de  
Term. Sanct.  
Mich. 35. fin.  
& An. 36. inci-  
pien. H. 3. Rot.  
pr. penes Re-  
mem. dom.  
Thes.

Jus Anglorum  
ab Antiq. p.  
112. 113.  
Serjantia tem-  
pore Edwardi  
Confes.

*Rex Baronibus; Mandamus vobis quod occasione arrentationis Serjantiarum, assesse per Robertum Passelewe, non distringas Jacobum de Archamgere per 2. Marc. & dimid. de Teneamento quod de nobis tenet per Serjantiam in Archamgere, (in Comitatu Southampton, &c.) per Chartam Beati Regis Edwardi Antecessoribus ipsius Jacobi super hoc confectam, sed ipsum Jacobum de predictis 2. Marcis & dimid. quietum esse faciatis in perpetuum; quia Chartam prefati beati Edwardi confirmavimus, & ipsam volumus inviolabiliter observari.*

*Breve est in forulo Marescalli, & Mandatum est Vicecomiti Southampton*



hampton comparat. die Jovis, die  
15. Jan. Anno Domini, &c.

The English of it is this :

For *Jacob Archangere.*

' The King to the Barons : We com-  
' mand you, that by the occasion of  
' the Rent of Serjanties, assessed by Ro-  
' bert Passelewre, you shall not distrain  
' *Jacob of Archangere* by two Marks  
' and an half, for the Tenement which  
' he holds of us by Serjantie in *Ar-*  
' *chamgere*, in the County of *Southamp-*  
' *ton*, and granted by the Charter of  
' the Blessed King *Edward*, to the An-  
' cestors of this *Jacob* ; but he the said  
' *Jacob* shall for ever be freed from the  
' aforesaid two Marks and an half ; be-  
' cause we have confirmed the Charter  
' of the aforesaid *St. Edward* ;  
' and we will have it to be inviolably  
' observed.

I shall make no Remarks upon this  
Charter, because it is obvious to eve-  
ry intelligent Reader ; the thing I  
drive at, is, to prove, That the English  
were not violently dispossessed of their

Properties, which they quietly held and enjoyed in the Time of Edward the Confessor, but that they still enjoyed them as before, notwithstanding all the vain pretences to the contrary.

And now, Sir, I shall close up this third Point, with a remarkable Passage or two out of *Ordericus Vitalis*, a famous *Historian*, who lived and writ in the latter end of the Reign of H. I. and beginning of K. Stephen, and for that reason must needs be admitted (next to a *Testis Ocularis*) for a Testimony beyond all exceptions. ;

His words are,

Orderic. Vitalis  
Eccles. Hist.  
lib. 3. fol. 503.

‘ Omnia disponente Deo in spatio  
‘ trium mensium per Angliam pacata  
‘ sunt, cunctiq; Præsules Regniq; Pro-  
‘ ceres cum Willielmo concordiam fe-  
‘ cerunt, ac ut Diadema Regium su-  
‘ meret, (sicut Mos Anglici Principa-  
‘ tus exigit) oraverunt. Hoc sum-  
‘ moperè flagitabant Normanni, qui  
‘ pro falce Regali nansiscendo suo  
‘ Principi subierunt ingens discrimen  
‘ maris & Prælii. Hoc etiam divino  
Nutu

‘ Nutu subacti optabant Indigenæ Reg-  
ni, qui nisi coronato Regi servire  
‘ hactenus erant soliti.

*The next Paragraph but one to this  
goes on thus.*

‘ Denique Anno ab incarnatione  
‘ Domini MLXVII. Indictione V. in die  
‘ Natalis Domini, Angli Lundoniæ ad  
‘ Ordinandum Regem convenerunt,  
‘ & Normannorum Turmæ circa Mo-  
‘ nasterium in armis & equis (nè quid  
‘ doli & seditionis oriretur) præsidio  
‘ dispositæ fuerunt. Adelredus itaq;  
‘ Archiepiscopus in Basilica Sancti Pe-  
‘ tri Apostolorum Principis, quæ West-  
‘ monasterium nuncupatur, ubi Ed-  
‘ wardus Rex venerabiliter humatus  
‘ quiescit, in præsentia Præsulum &  
‘ Abbatum Procerumq; totius Regni  
‘ Albionis, Gulielmum Ducem Nor-  
‘ mannorum in Regem Anglorum con-  
‘ secravit, & Diadema Regium capiti  
‘ ejus imposuit.

‘ Gulielmus Rex multa Lundoniæ Id. lib. IV. fol.  
505, & 506.  
‘ postquam coronatus est, prudenter,  
‘ justè, clementerq; disposuit: quæ-  
‘ dam ad ipsius Civitatis commoda vel  
‘ dignitatem, alia quæ genti profice-  
rent

## *Argumentum*

‘rent Universæ : Nonnulla quibus  
‘consuleretur Ecclesiis terræ. Jura  
‘quæcumq; dictavit optimis rationi-  
‘bus sanxit ; Judicium Rectum nulla  
‘persona nequicquam ab eo postulavit.  
‘Neminem, nisi quem non damnare  
‘iniquum foret, damnavit. •Suis quo-  
‘que Primatibus digna se & gravitate  
‘præcepit, & diligenter æquitatem  
‘suasit ; Esse jugiter in Oculis haben-  
‘dum æternum Regem, cujus vicerint  
‘præsidio. Nimium opprimi victos  
‘non oportere, victoribus professio-  
‘ne Christianâ pares, nè quos justè  
‘subegerint, injuriis ad rebellandum  
‘cogerent. Seditiones interdixit, cæ-  
‘dem, & omnem rapinam frænans, ut  
‘Populos armis, ita legibus Arma.  
‘Tributis & cunctis rebus ad Regium  
‘fiscum reddendis, modum, qui non  
‘gravaret, imposuit, Latrociniiis, In-  
‘vasionibus, Maleficiis, locum omnem  
‘intra suos terminos denegavit. Por-  
‘tus & quælibet itinera Negotiatori-  
‘bus patere, & nullam injuriam fieri  
‘jussit. Sic omnino proba ejus in  
‘regnando initia fuere, & incrementa  
‘probitatum ad utilitatem Subditorum  
‘liquidò fulsere, que in bonis perfe-  
‘verantia laudabilisq; finis evidentibus  
‘signis confirmavere. The

The sence of which is,

King William having sworn inviolably to observe the Laws of Edward the Confessor, as I have already acquainted you, and being crowned King, the whole English Nation in three months time quietly submitted to him; which the *Historian* observes to be by *Divine Providence*: And they much relyed upon the force of that Solemn Oath he took; and great cause they had for their doing so; for,

Remarkable is it, that in the beginning of his Reign, he made a conscience to keep it; and this the *Historian* plainly proves: for so far was he from pretending to be a Conqueror, or from exercising absolute Power and Sovereignty over the English, that you see he denied to none right Judgment who required it of him; he condemned none but those who deserved it by the condemnation of the Law; he strictly commanded his great Men, to whom he had given the Estates of those who had been bold in Arms against him, under King Harold, that



that they should behave themselves with all due moderation and temper ; and he invited them to *Acts* of Justice by his Example : He charged them always to have God before their Eyes, by whose Arms they had so far overcome ; That they should, nay ought, not too much to oppress those they had got the better of, who were Christians with them, lest those whom they had justly subdued, should by such their Oppressions be forced to rebel again ; he strictly forbade them all Violences, that they should restrain themselves from all Cruelties and Rapines ; *That as the People should be kept in Peace by his Arms ; so their Arms should submit to, and be governed by the Laws.*

Apud Lambar.  
LL. Wil. prim.  
fol. 170. c. 55.

Nor did he only give this admirable Advice, but he prudently governed himself, and set easy Boundaries to those Services, Taxes, & Aids, *quod de jure facere debent*, which were due to him by the Law ; he absolutely denied all Pardons and Grace to Robbers, and all disturbers of the Publick Peace, and wicked Persons : He commanded all the Roads to be free and open for Tra-

Travellers, and that no Injuries should be done them; so that the beginning of his Reign was, as it were, a Golden Age; and his Clemency, and other Acts of Goodness, still shone brighter to the happiness of his Subjects, which was confirmed towards the Loyal and Dutiful, by his steady and commendable perseverance.

Where, in all this, is there any pretence to absolute Conquest and despotical Dominion?

And now to conclude; I shall produce an Evidence, that is *omni exceptione major*; it is *Gulielmus Pictavensis*, who, (as *Ordericus Vitalis in fine libri tertii* writes) was, *Regis Gulielmi Capellanus*, and writ the Acts of *William the First*. And he categorically says it, That *Nulli tamen Gallo datum est quod Anglo cuicumque injustè fuerit ablatum*; that is, according to the Judgment given in *Sharborn's* case, That those who had kept themselves unconcerned, and had neither, *consilio vel auxilio*, assisted *Harold* against *William*, had the full and free benefit of the *Saxon Laws*, and had not their Estates

Estates unjustly taken from any of them, and given to his French and Normans. *Gulielm. Pictavens. in Gesta Gulielm. Ducis Norman. & Regis Anglorum. fol. 208.*

But I will leave this, Sir, and now come to your fourth and last Question.

The

## The Fourth Question.

IV. Whether it be not a **Grand Error** to affirm, That there were no English Men in the **Common Council** of the **Whole Kingdom**.

*The Anonimous  
Author a-  
gainst Mr. Pe-  
tyt. p. 37.*

**O**ur Government, saith the Learned and most judicious Mr. Hunt, by a King and Estates of Parliament, is as ancient as any thing can be remembered of the Nation. The attempt of altering it in all Ages accounted Treason, and the punishment thereof reserved to the Parliament by 25. Ed. 3. The conservancy of the Government being not safely to be lodged any where, but with the Government it self. Offences of this Kind not pardonable by the King, because it is not in his Power to change it. This is Our Government, and thus it is established, and for Ages, and immemorial Time hath thus continued; a long succession of Kings have recognized it to be such.

*In his Argument for the Bishops Right in judging in Capital Causes in Parliament. Postscript. p. 2.*

This

This too perhaps will be granted, Sir, in some sence, that for a long Series, and Tract of Time, the Govern- ment hath been so; but the main pinch and stress of your Question, as I apprehend it, is this, Whether after William the Conqueror had settled himself as well as he could on the English Throne, he did admit any of the English to sit in the Great Council of the Nation, and to Advise and Consult, *de arduis & Urgentibus negotiis Regni*? And I hope this I shall make plain and evident to you, That the Grand Court of Parliament was in substance the same that it was before the coming in of this Conqueror, and that there were English Men Members of it in the Time of the Conqueror.

'Tis not to be denied, but that the same Courts, that were in the Saxon Time for administration of Justice, continued after William the first was made King, and the Footsteps of them remain yet to this day: I shall mention a few, and so come to the main Point in Argument.

I. As



1. As it was their Wisdom to preserve the Ancient Land-marks; so was it likewise both their Wisdom and their Care to continue their due Privileges and Interests. Their County Courts were still kept up, and every County had its Court, and every Court its wonted Jurisdiction: no complaint must be to the King's Court, if Right might be done in the County; no Distress must be taken but by Warrant from the County, and that must be after complaint thrice made. The County Court must be called, as our Ancestors have appointed: such as will not come as they ought, shall be first summoned, and in case of default, distrained; at the fourth default, *Reddatur de rebus hujus hominis quod calumpniatum est, quod dicitur Ceangel, & insuper Regis forisfactura*; that is, The Complainant shall be satisfied out of the Distresses so taken, and the King also for his Fine. These are the express Laws of the Conqueror's own

1. County  
Courts.  
LL. Hen. 1. c. 6  
apud Lambard  
fol. 180.

LL. Guil. c. 42  
fol. 168,

LL. Guil. c. 64

establishment. The *last* of which also was confirmed by another express *Law*, saving that he would *allow* but of *two Summons* and *two Distresses* before *Execution*.

I shall give you a memorable case to prove the continuance of this Court.

Selden's *Titles of Honour*, 2d Part c. 5. f. 581  
 u. Eadmer.  
*Hist. Nov. l. 1.*  
 p. 9 & videlicet  
 notas ad eundem.  
 p. 197.  
 de placito apud  
 Pinenden inter  
 Lanfrancum  
 Archiepiscopum & Odo-  
 nem Bajocen-  
 sem Episco-  
 pum.

Odo, the Conqueror's half Brother, was by him made Earl of *Kent*, and therewith had the Gift of a large Territory in *Kent*, and taking advantage of the King's displeasure at *Stigand*, the Arch-bishop, of *Canterbury*, possessed himself by *Disseisin* of divers Lands and Tenements belonging to that See. *Lanfrank*, the succeeding Arch-bishop being informed hereof, petitioned to the King that Justice might be done him *secundum Legem Terræ*, and the King sends forth a Writ to summon a *County Court*: The Debate lasted three days before the *Free-men* of the *County of Kent*, in the presence of many *chief Men*, *Bishops* and *Lords*, and others *skilful in the Laws*; and the Judgment passed for the

the Arch-bishop Lanfrank, upon the *Notes of the Freeman*. This *County Court* was holden by *special Summons*, and not by *adjournment*, as was allowable by the *Saxon Law* upon special occasions: And this *Suit* was originally begun, and had its final determination in the *County Court*. And the *County Courts*, in those days, were of so great esteem, that two of the greatest *Peers* of the Realm, one a *Norman*, the other an *Italian*, did cast a *Title* in fifteen Mannors, two Lordships, with many Liberties upon the *Notes of the English Freeholders* in a *County Court*; and that the *Sentence* was allowed and commended by the *King*, and submitted to by all.

2. The *Hundred Courts* were still continued, and they were of <sup>2. Hundred Courts.</sup> *two sorts*. The *first* whereof was holden *twice* a Year, and all the *Free-holders* within the *Hundred*, were bound to appear for the *service* of their *Fees*; and was the *Sheriff's Court*, and such appearances were called the *Sheriff's Turnes*, where it belonged

to *Sheriffs* to enquire of all *Personal Offences*, and of all their *Circumstances* done within those *Hundreds*. The other was the more ordinary Court, belonging to the *Lord* of the *Hundred*, to whom also belonged the *Fines* in cases there concerned. This Court was to be held *once* in each Month; and no suit to be begun in the *King's Court*, that regularly ought to begin in the *Hundred*. No *Distringas* to issue forth till *three demands* made in the *Hundred*. And *three Distresses* then to issue forth; and if upon the *fourth* the Party appear not, *execution* then to be by *Sale* of the *Distress*, and the *Complainant* to receive *satisfaction*.

3. And so likewise were the Court *Barons*, &c. continued, and the *Lords* held *Pleas* either in their own *Persons*, or by their *Stewards*.

But not to forget, Sir, your Question, I shall now shew you what the *Sovereign Court of Parliament*

was,

was, and whom it consisted of in the Saxon Times; and for this I think it will be *needless* to give you any more than one Instance (which, as by the way, it does impregably assert, That the Commons of England were an Essential and Constituent Part of the Saxon General Councils; so doth it, I think, *fully* and *clearly* refute and baffle that *novel Erroneous Notion*, viz. That there are no Commons to be found in the Saxon great Councils, nor any thing that tends towards the proof of the Commons of those Times to have had any share in making Laws in those Councils.) The memorable Instance, is the mighty Law of *Cythes*, which was made and ordained,

*The Anonymous Author,*  
p. 20. in the  
Margin.

*Idem. p. 13, 14.*

*A Rege, Baronibus, & Populo.*

*Lanbard. de*  
*priscis Angl.*  
*Legibus. c. 8.*

*By the King, his Barons, and  
his People.*

*fol. 139.*  
*Spelm. Concil.*  
*Tom. 1. f. 621.*

Now William the First, in that little time of Rest he had from Foreign Wars with the French King, and his Neighbouring Princes to Normandy, did apply both it and himself in

the settling of Laws here, which was done, not *ex plenitudine Regiæ Potestatis*; no, nor by the Roman Barons co-operating with that Power; but by the joint Advice, and unanimous Consent of the Grand Council of the Lords and wise Men of the Kingdom of England: To prove which, I shall produce the Testimony of Ancient Writers, whom no Man of Historical understanding can modestly impeach of Partiality, Faction, or Interest, in the Case in Question.

Lambard.  
fol. 158.

- I. The first shall be taken out of the Chronicle of Litchfield, which tells us, That this William, in the fourth Year of his Reign at London, *Consilio Baronum suorum*, by the Advice of his Barons, caused a General Meeting, or Assembly, to be summoned, *Per universos Angliæ Comitatus, omnes Nobiles, Sapientes, & sua Lege eruditos, ut eorum Leges & consuetudines audiret*; i. e. of all the Nobility, wise Men, and such as were skilled in the Laws, through all the Counties of England, to hear what their Laws



‘Laws and Customs were. And after this was done, at the request of the **English** Community, he did *consent* that they should be **confirmed**; and so they were *ratified* and kept throughout all his Kingdom. The words are, *Ad preces Communitatis Anglorum, ex illo die Magna Authoritate venerata, & per universum Regnum corroborata & conservata sunt Leges Sancti Regis Edwardi, præ cæteris Regni Legibus.*

From this Testimony, I think it will plainly appear ;

- i. That the *Barones sui* here of *William*, cannot absolutely exclude the **English**, and only signify his **Norman** Barons, upon those **Authorities** and Reasons, I have already offered, to prove, That there were equally *Barones Francigeni & Angli nostri*, in his Time, (as you may see in my Argument under the third Question.)

H 4

2. That

2. That the King having, by the Counsel of these his Barons, summoned all the Nobility, wise Men, and those that were skilful in the Laws of the Land, throughout all the Counties of England, he then and there ratified and confirmed the Laws of St. Edward.

3. And to prove that this general Assembly of the Nobility, wise Men, and able Lawyers, were a PARLIAMENT, I shall now give you the Judgment of Mr. Selden, in his own words, which are these, viz. That,

Selden's Tit.  
of Hon. f. 580.

(p) In Hen. 2.  
p. 343. E. Lond.

‘William the first, in the fourth  
‘Year of his Reign, or MLXX. (which  
‘was the Year wherein he first brought  
‘the Bishops and Abbots under the  
‘Tenure of Barony) *Consilio Baro-*  
‘*num suorum* (saith Hoveden (p) out  
‘of a Collection of Laws, written by  
‘Glanvill) *Fecit summoniri per uni-*  
‘*versos Consulatibus Angliae, Anglos No-*  
‘*biles, & Sapientes, & sua Lege eru-*  
‘*ditos, ut eorum jura & Consuetudines*  
ab

*ab ipsis audiret.* And twelve were returned out of every County, who shewed what the Customs of the Kingdom were, which being written by the hands of *Aldred* Arch-bishop of *York*, and *Hugo*, Bishop of *London*, were, with the Assent of the same Barons, for the most part, confirmed in that Assembly, which was a Parliament of that Time.

And a little lower, he saith, 'This might be the same Parliament, wherein the Controversy between *Thomas* Arch-bishop of *York* (he was consecrated after the death of *Aldred*, the same Year; and to the same Year this Controversy is attributed) and *Ulfstan* Bishop of *Worcester*, touching certain Possessions, was determined.

So that from hence, 'tis easy to observe; That

1. There were English Men in this Council, by the words **ANGLOS NOBILES**, &c.  
And,

2. Besides

2. Besides the Confirmation of the **Laws** of **St. Edward** here mentioned, it may reasonably be supposed, That the **Law** for *bringing the Bishops and Abbots under the Tenure of Barony*, was first made in this Parliament. And that
3. Likewise, the *great Case* between the Arch-bishop of *York*, and this same Bishop of *Worcester*, was here judicially determined. And,
4. If there were no English Men in this great Council, how then came it to pass that the Bishop of *York* and *London* were there, who certainly were Bishops in the *Saxon Times*? And it may also seem not improbable, that there was then an universal Consent among them, that these two Bishops should be intrusted to write down for them the English **Laws**.
5. And there is one great Thing more, to close withal, which is,  
That

That at this Parliament, when the Saxon Laws were confirmed, there was a particular Law past in favour of the Normans, *qui ante adventum Guilielmi Cives fuerant Anglicani*, that they should be *participes Consuetudinum Anglorum, quod ipsi dicunt Anhlote & Anscote, & persolvant secundum Legem Anglorum.*

Carta Regis  
Wil. I. apud  
Lambard. c. 54.  
fol. 170.

The meaning of the words Anhlote and Anscote, as Sir Henry Spelman informs us, is *vulgo* Scot & Lot; that is, That every such French Man should not be charged with double Taxes and Duties as a Foreigner, but that he should pay his easy share and proportion as any natural English Man. But then,

Sir H. Spelm.  
Gloss. verbo.  
Anhlote. f. 31.

- II. It was in such a grand Assembly of wise Men of the Kingdom, where Lanfranc was elected to the See of Canterbury; for it was by the Assent of the Lords and Prelats, and of the whole People; that is to say, by the Parliament of England. This likewise was about the fourth Year

*Gervaf. Dorob-  
bernenf. Act.  
Pont. Cant.  
fol. 1653, l. 5.*

*Year of the Conqueror; And an Ancient Historian writes thus of his Election: Eligentibus eum Senioribus ejusdem Ecclesiæ cum Episcopis ac Principibus, Clero & Populo Angliæ, in Curia Regis in Assumptione Sanctæ Mariæ.*

But another Contemporary Writer gives it you in these words;

*Relat. Wilhelm. prim. ad  
finem tract. de  
Gavelkind à  
Syla Taylor.  
p. 194.*

*Rex mittens propter illum in Normanniam, fecit eum venire in Angliam, eiq; Consensu & Auxilio omnium Baronum suorum, omniumq; Episcoporum & Abbatum, totiusque Populi Angliæ commisit ei Dorobernensem Ecclesiam.*

*Ex Cartulario  
Coenobii West-  
monasteriensis  
in Biblioth.  
Cotton. sub  
effigie Faustinae.  
A. 3.  
Dugdal. Orig.  
Juridic. fol. 16.*

III. There was another General Council or Parliament held at Westminster, in the fourteenth Year of this King, where, by his Charter, he confirmed the Liberties of that Church, after he had subscribed his own Name, with the Sign of the Cross; adding many of the great Clergy, and Temporal Nobility; and instead of *cum multis aliis*, says, *multis*



multis præterea illustrissimis Viro-  
rum personis, & Regni Principi-  
bus diversi ordinis omisis, qui si-  
militer huic confirmationi piissimo  
affectu Testes & Fautores fuerunt.

Hii autem illo Tempore à Regia po-  
testate diversis Provinciis &  
Arbibus, ad Universalem Sy-  
nodum pro causis cujuslibet Christi-  
anæ Ecclesiæ audiendis & tractan-  
dis, ad præscriptam Celeberrimam Synodum quod Westmona-  
sterium dicitur, Convocati, &c. In

Provincia, i.e.  
Comitatus.

Seld. Tit. Hon.  
fol. 273. Spelm.  
Gloss. 111. Pro-  
vincia. f. 471.

Parliamen-  
tum, Synodus  
magna nuncu-  
patur. Somne-  
ri Gloss.

the Margin of the Book, there  
is writ this Remarque, *Nota hic hos  
omnes convocari à Rege suâ aucto-  
ritate ad causas Religionis tractan-  
das, tam Nobiles de Clero, quàm  
Principes Regni, cum aliis inferio-  
ris gradus, Convocatio quorum vi-  
detur esse Parliamentum.*

IV. I think, by the general direction  
of the Writs of this King, as also  
by that of his Charters, (some  
of which I have given you in  
my Argument to your third Que-  
stion, and therefore shall refer  
you back to them) it is plainly  
demonstrable, that William had

LL. Guilielm.  
c. 55.

as well **English Barons** as **French Barons**; and that **his Barons** were always a **part** of his great **Council**, will hardly, I suppose, be denied by any. And that *one Law* of his, which may be called the **first MAGNA CHARTA** in the **Norman Times**, by which the King reserved to himself from the **Free Men of this Kingdom**, nothing but their free Services due to him according to Law; in the conclusion saith, That *they*, to wit, the **English**, shall *hold* and enjoy their **Estates** well, and in peace, free from all unjust Exactions and Tallage; and this *ratified* and *confirmed* by the **Common Council** of the *whole Kingdom*, which cannot be restrained to the **Norman Barons** only. So that herein is asserted the **Liberty** of the **English Free-men**, and of the **Representative Body** of the Kingdom.

These, I think, are uncontrovertible Proofs and Evidences.

1. That

1. That there were *General Councils*, or *Parliaments*, in this first *William's Time*.
  2. That in these *Parliaments*, the *English Barons* as well as the *French Barons* were present.
  3. And lastly, That there likewise was, as an *essential part* thereof,
1. The *Communitas Anglorum*, the *Community of English-men*.
  2. Besides the *Bishops and Nobility*, there were the *Clerus & Populus*, the *Inferior Clergy and People of England*. And,
  3. Not only the *Great Clergy*, and the *Temporal Nobility*, but the *Principes diversi Ordinis, a Regiâ potestate diversis Provinciis & Urbibus ad Universalem Synodum Convocati*, &c. viz. The *Chief and Principal Men of several Ranks and Degrees in Condition*, were summoned by *virtue of the King's Writ*, out of their several  
re-

respective Counties, Cities, and Burroughs, to this General Synod, or Parliament.

And, Sir, if this be so, I doubt not but that both your self, and all judicious and unbiaſſed Persons, (who have not resolved to espouse a Party, and who will not suffer themselves to be drawn aside by any novel unwarrantable Opinions, but will fairly submit their Judgments to clear and perspicuous Truth, when once it manifestly appears) I say, both you and they will certainly rest satisfied in these great and powerful Authorities, which I have here presented to publick view, and serious consideration: and I think these have sufficiently made out and proved, That

1. William the first, vulgarly called the Conqueror, did not get the Imperial Crown of England by the Sword, nor made an absolute Conquest of the Nation at his first entrance.

2. Nor that he abolished all the English Laws, or changed the whole

whole Frame and Constitution of the Saxon Government. But,

3. That the English had still Estates and Fortunes continued to them; and that it was a great mistake in any to affirm, That the King and his Normans divided and shared them all among them. As likewise,

4. In the fourth place, It has been a grand Error to ascertain, That there were no English Men in the Common Council of the whole Kingdom, in the Reign of William the Conqueror.

Now, Sir, as a corroborating Testimony, to explain and enforce what I already have said, I shall conclude my Discourse at present with a very memorable and studied Speech of a Person of great Learning and Abilities in his Time, collected out of a large Original Manuscript (which I have seen) of Sir Roger Owen, a very great Antiquary, that lived in the Time of King James; and one, who, as appears by that Book, was a Man not  
I only

only of wonderful Knowledge, and admirable Observation in the Records and Histories of his own Nation, but also in those of Foreign Countries.

This was a Speech of the *then* Lord *Whitlock*, in *Novemb. 1650.* upon the *House's* long and smart Debate touching the *Act for putting all the Books of Law; and the Proceſs and Proceedings in Courts of Juſtice into the Engliſh Tongue* : In which Debate ſome ſpoke in *derogation and diſhonour* of the *Laws of England*.

For ſome vindication whereof, and for ſatisfying ſome Miſtakes, he delivered his Opinion in the Houſe to this effect.

It is now *newly printed*, in *Mr. Whitlock's MEMORIALS OF THE ENGLISH AFFAIRS, &c.* and is here truly tranſcribed.

Mr.



*Mr. Speaker ;*

**T**He Question upon which your present Debate ariseth, is of no small moment; nor is it easily or speedily to be determined; for it comprehends no less than a *total Alteration* of the *Frame* and *Course* of *Proceedings* of our *Law*, which have been established and continued for so many Years.

I should not have troubled you with any of my weak Discourse, but that I apprehend some Mistakes and *dishonour* to the *Law* of *England*, if passed by without any Answer, may be of ill consequence; and having attended to hear them answered by others, who are not pleased to do it;

I held my self the more engaged; in the *duty* of my *Profession*, to offer to your Judgment (to which I shall always submit) what I have met with, and do suppose not to be impertinent, for the rectifying of some Mistakes which are amongst us.

' A worthy Gentleman was pleased  
 ' to affirm, with much confidence, ( as  
 ' he brought it in upon this Debate)  
 ' That the **Laws** of England were in-  
 ' troduced by **William the Conqueror**,  
 ' as (among other Arguments, he af-  
 ' firmed ) might appear by their being  
 ' written in the French Tongue.

' In his first Assertion, that our  
 ' **Laws** were introduced by **William**  
 ' the Conqueror out of France, I shall  
 ' acknowledg, that he hath several  
 ' both Foreign and Domestick Au-  
 ' thors, whom he may follow therein ;  
 ' The Foreign Authors are, *Jovius*,  
 ' *Æmilius*, *Bodine*, *Hottoman*, *Dyno-*  
 ' *thus*, *Volateran*, *Berault*, *Berkley*,  
 ' *Choppinus*, *Uspargensis*, *Malines*, and  
 ' *Polidore*, who affirm this erroneous  
 ' piece of Doctrine ; but the less to  
 ' be regarded from them, because they  
 ' were strangers to our **Laws**, and  
 ' took up upon trust what they pub-  
 ' lished in this Point.

' Of our own Country-men, they  
 ' have *Paris*, *Malmesbury*, *Matthew*  
 ' *Westminster*, *Fox*, *Cosins*, *Twyne*,  
 ' *Heyward*, *Milles*, *Fulbeck*, *Cowell*,  
 ' *Ridley*,

‘*Ridley, Brown, Speed, Martyn, and*  
‘*some others.*

‘*All of them affirm, That the Laws*  
‘*of England were introduced by Wil-*  
‘*liam the Conqueror; But their Er-*  
‘*rors are refuted by Sir Roger Owen in*  
‘*his Manuscript; who saith, That Ro-*  
‘*ger Wendover, and Matthew Paris,*  
‘*were the first Monks that hatched these*  
‘*addle Eggs.*

‘*I shall endeavour to shew you,*  
‘*That the Original of our Laws is*  
‘*not from the French; that they were*  
‘*not introduced by William the Con-*  
‘*queror out of Normandy: And I*  
‘*shall humbly offer to you my Answer*  
‘*to some of their Arguments, who are*  
‘*of a contrary opinion.*

‘*Polydore, Hist. Angl. l. 9. affirm-*  
‘*eth, That William the Conqueror*  
‘*first appointed Sheriffs and Justices*  
‘*of the Peace, erected Tennes,*  
‘*brought in Trials by twelve Men,*  
‘*and several other Particulars of our*  
‘*Laws.*

‘*For Sheriffs, their name Scire*  
‘*Reeve, shews them to be of the Sar-*  
‘*on Institution. And our Histories*  
‘*mention the division of Shires by*  
‘*King*

' King *Alfred* ; but in truth, it was  
' much more ancient.

' And it is apparent by our *Books*  
' and *Records*, some whereof are in  
' the *Hustings* of *London*, and in the  
' *Tower*, that the same things were  
' in use here long before the Time of  
' King *Will. I.*

' Sir *Roger Owen* shews at large,  
' That *Livery of Seisin*, *Licenses*, or  
' *Fines* for *Alienation*, *Daughters* to  
' inherit, *Trials by Juries*, *Abjura-*  
' *tions*, *Utlaries*, *Coroners*, disposing  
' of *Lands* by *Will*, *Escheats*, *Gaols*,  
' *Writs*, *Wrecks*, *Warranties*, *Catalla*  
' *Fellorum*, and many other parts of  
' our *Law*, and the *Forms* of our  
' *Parliaments* themselves, were here  
' in being before the Time of Duke  
' *William*.

' Agreeing hereunto are many of  
' our *Historians*, and learned *Anti-*  
' *quaries*.

' But it is objected, That in the  
' *Grand Custumary* of *Normandy*,  
' the *Laws* are almost all the same  
' with ours of *England*, and the form of  
' their *Parliaments* the same with  
' ours. That

‘ That the *Writer* of the *Preface* to  
 ‘ that *Book*, saith, It contains only the  
 ‘ *Laws* and *Customs* which were  
 ‘ made by the *Princes* of *Norman-*  
 ‘ *dy*, by the *Council* of their *Pre-*  
 ‘ *lates*, *Earls*, *Barons*, and other *Wise*  
 ‘ *Men*; which shews the forms of  
 ‘ their *Parliaments* to be the same  
 ‘ with ours, and the *Laws* in that  
 ‘ *Book* to be the proper *Laws* of  
 ‘ *Normandy*, and ours to be the same;  
 ‘ therefore they argue, that our *Laws*  
 ‘ were introduced from thence by  
 ‘ *William the Conqueror*.

‘ This will be fully answered, if  
 ‘ that *Grand Customary* of *Norman-*  
 ‘ *dy* was composed in our King *Edw. I.*  
 ‘ his Time, (as good Authors hold it  
 ‘ was) then it cannot be, That our  
 ‘ *Laws* or *Parliaments* could be de-  
 ‘ rived from thence.

‘ These Learned Men say, That this  
 ‘ *Customary* was a *meer Translation* of  
 ‘ our *Law-Book*, *Glanvill*; as the  
 ‘ *Book* of *Regia Majestas* of the  
 ‘ *Laws* of *Scotland* is; and the like  
 ‘ of the *Laws* of *Burgundy*.

‘ They farther add, That the first  
 ‘ establishing of the Customary of  
 ‘ Normandy, was in Hen. 1. his Time;  
 ‘ and afterwards again, about the be-  
 ‘ ginning of Edw. 2. his Time.

‘ If the Laws in the Customary  
 ‘ were introduced there from England,  
 ‘ it will then be granted, that the Laws  
 ‘ of England were not introduced here  
 ‘ by William the Conqueror: But I  
 ‘ think it very clear, that their Laws  
 ‘ were brought to them out of Eng-  
 ‘ land; and then you will all agree to  
 ‘ the conclusion.

‘ Our King Hen. 1. conquered Nor-  
 ‘ mandy from his Brother Robert, and  
 ‘ was a Learned King, as his Name  
 ‘ Beauclerke testifies; whom Ivo calls,  
 ‘ an especial Establisher of Justice. Se-  
 ‘ querius relates, That this King esta-  
 ‘ blished the English Laws in Nor-  
 ‘ mandy.

‘ Herewith do agree Gulielmus Bri-  
 ‘ to, Armoricus, Rutclurius, and other  
 ‘ French Writers; who mention also,  
 ‘ That the Laws in the Customary of  
 ‘ Normandy, are the same with the  
 ‘ Laws collected by our English King  
 ‘ Edward the Confessor, who was be-  
 ‘ fore the Conqueror. An



‘ An additional Testimony hereof,  
‘ is out of *William de Alenſo Revile*,  
‘ who, in his *Comment* upon the *Cu-*  
‘ *ſtumary*, ſaith, That all the *Laws* of  
‘ *Normandy* came from the *Engliſh*  
‘ *Laws* and *Nation*.

‘ In the *Cuſtumary*, there is a Chap-  
‘ ter of *Rampes*, or *Diſtreſſes*, and  
‘ decreed, That one ſhould not bring  
‘ his *Action* upon any *Seiſure*; but  
‘ from the Time of the *Coronation* of  
‘ King *Richard*; and this muſt be our  
‘ King *Richard* the firſt, becauſe no  
‘ King of *France* was in that Time of  
‘ that Name; and the words *Rampes*  
‘ and *Withernams*, were *Saron*  
‘ words, taken out of the *Engliſh*  
‘ *Laws*, ſignifying a *Pawn*, or *Diſtreſſ*,  
‘ and in the ſame ſence are uſed in the  
‘ *Cuſtumary*.

‘ That which puts it further out of  
‘ ſcruple, is, That there are yet ex-  
‘ tant the *Manuſcripts* themſelves of  
‘ the *Saron Laws*, made in the *Par-*  
‘ *liamentary Councils* held by them  
‘ here; which are in the Language  
‘ and Character of thoſe Times; and  
‘ contain in them many of thoſe things  
‘ which are in the *Roman Cuſtumary*.

‘ It

‘It is no improbable Opinion, That  
 ‘there was a former Establishment of  
 ‘our Laws in Normandy, before the  
 ‘Time of Hen. I. and that it was by  
 ‘Edward the Confessor, who (as all  
 ‘Writers of our History agree) was a  
 ‘great Collector and Compiler of our  
 ‘English Laws.

‘He lived a long time with his Kins-  
 ‘man Duke William in Normandy,  
 ‘who was willing to please the Con-  
 ‘fessor, in hopes to be appointed by  
 ‘him to be his Successor; wherein  
 ‘the Duke’s Expectation did not fail  
 ‘him.

‘The Confessor having no Chil-  
 ‘dren, and finding Normandy with-  
 ‘out a settled Government, and want-  
 ‘ing Laws, advised with his Kinsman,  
 ‘Duke William, to receive from him  
 ‘the Laws of England, which he had  
 ‘collected, and to establish them in  
 ‘Normandy; which Duke William  
 ‘and his Lords readily accepted, for  
 ‘the good of their People; and there-  
 ‘by obliged the Confessor.

‘Another proof hereof is, That  
 ‘such Laws as the Normans had be-  
 ‘fore the Time of Duke William,  
 ‘were

‘were different from those in the Customary, and from the English Laws.

‘As their Law, That the Husband should be hanged if his Wife were a Thief, and he did not discover it : The meaner People were as Slaves, and the like : and the Trial of Theft by Ordeil, which then was not in England.

‘*Wigorniensis* reports, That the Normans who came in with Queen Emma, the Wife of Ethelred, were so hated of the English, for their injustice and false Judgment, that in the Time of King Canutus, they were, for this cause, banished ; and it is the less probable, that they being so unjust themselves, should introduce so just Laws as ours are.

‘Between the Conquest of Normandy by Rollo, and the Invasion of England by Duke William, there were not above 160 Years ; that of Normandy was about Anno 912. that of England Anno 1060.

‘It is not then consonant to Reason, that those Normans, Pagans, a rough Martial People, descended from

‘from so many Barbarous Nations,  
‘should, in the time of 150 Years,  
‘establish such excellent Laws among  
‘themselves, and so different from  
‘the French Laws, among whom  
‘they were, and all parts in the World  
‘except England.

‘And such Laws which were not  
‘only fit for their *Dukedom* and *small*  
‘*Territory*, but fit also for this *King-*  
‘*dom*, which in those days was the  
‘second in Europe for Antiquity and  
‘*Worth*, by confession of most Foreign  
‘*Historians*.

‘If we will give credit to their own  
‘*Authors*, this Point will be sufficient-  
‘ly evinced by them. These words  
‘are in the *Poem* of the Customary,  
‘which is entituled *Descriptio Nor-*  
‘*manniæ*.

‘*Hucusque Normannica CONSUE-*  
‘*TUDINES LATOREM sive Da-*  
‘*torem SANCTUM EDWARDUM*  
‘*Angliæ Regem, &c.*

‘The same is witnessed by *Chronica*  
‘*Chronicorum*, That *St. Edward*, King  
‘of England, gave the Laws to the  
‘*Normans*, when he was long har-  
‘boured there.

‘And

‘ And that he made both the *Latus*  
 ‘ of England and Normandy, appears  
 ‘ sufficiently by the conformity of  
 ‘ them, for which he cites several Par-  
 ‘ ticulars, as of Appeals, and the  
 ‘ Custom of England, *ad probandum*  
 ‘ *aliquid per credentiam duodecim ho-*  
 ‘ *minum vicinorum*, which, he saith, re-  
 ‘ mained in Normandy to that day.

‘ Polydore forgetting himself what  
 ‘ he wrote in another place, saith, of  
 ‘ King Henry the Seventh, that when  
 ‘ a Doubt was made upon the Proposal  
 ‘ of Marriage of his Daughter to  
 ‘ Scotland, that thereby England  
 ‘ might in time be subject unto Scot-  
 ‘ land.

‘ The King answered, No ; and  
 ‘ that England, as the Greater, will  
 ‘ draw it to Scotland being the less,  
 ‘ and incorporate it to the *Latus* of  
 ‘ England, as (saith the *Historian*)  
 ‘ it did Normandy, though the owner  
 ‘ thereof was Conqueror of Eng-  
 ‘ land.

‘ And Sir Roger Owen, in his *Manu-*  
 ‘ script, affirms, That there is not any  
 ‘ of our *Historians*, that lived in the  
 ‘ space of 200 Years, immediately af-  
 ‘ ter

ter the Conquest, which doth describe our *Laws* to be taken away, and the *Norman Custom* introduced by the Conqueror.

Some of them (and not improbably) mention the alteration of some part of them, and the bringing in some *Norman Customs*, effectual for the keeping of the Peace.

There is yet behind the great *Argument* most insisted on, and often urged by the Gentlemen of another Opinion, which is the Title of *William*, who is called the Conqueror; from whence they conclude, That by his Conquest he changed the *Laws* and Government of this Nation, and that his Successors reckon the beginning of their Reigns from his Conquest.

To this is answered, That *a posse ad esse non valet Argumentum*: the Conquering of the Land is one thing, the introducing of new *Laws* is another thing; but there is direct proof to the contrary of this Argument.

Duke



‘Duke William never Sir-named  
 ‘himself the Conqueror, nor was so  
 ‘called in his life-time, as may appear by  
 ‘all the Letters Patents and Deeds  
 ‘that he made, wherein he is called  
 ‘*Guilielmus Rex, Dux, &c.* never Con-  
 ‘questor; and our *Ancient Historians*  
 ‘give him the same Titles, and not  
 ‘that of Conqueror.

‘In the Title of *Nubrigensis’s* Book,  
 ‘he is Sirnamed *William the Bastard*.  
 ‘*Malmsbury* calls him *William the*  
 ‘*First*; *Hoveden*, *William the El-*  
 ‘*der*.

‘*Adam de Monmoth* saith, That  
 ‘I. Ed. 3. this word (Conquest) was  
 ‘found out to denote and distinguish  
 ‘the certain *Edward*; because two  
 ‘of the same name were *Predecessors*  
 ‘to this King, and to the Conqueror,  
 ‘who claimed the Crown as Heir to  
 ‘*Edward the Confessor*, but (saith he)  
 ‘we call him the Conqueror, for that  
 ‘he *overcame Harold*.

Duke William himself claimed to  
 ‘be King of England as *Successor*,  
 ‘and *Adopted Heir* of the *Confessor*,  
 ‘by his *Will*, and *Harold’s* renounce-  
 ‘ing of his Title by Oath.

The

‘ The Register of St. *Albans*, *Matth.*  
 ‘ *Paris*, and others, attest, That the  
 ‘ Barons of England did homage to  
 ‘ him as Successor; and he relied on  
 ‘ them in his Forreign Wars, and the  
 ‘ Check given to him by the Kentish  
 ‘ Men, and the Forces gathered by the  
 ‘ Abbot of St. *Albans*, brought him to  
 ‘ engage to confirm the Lawes of the  
 ‘ Confessor; and as his Successor by  
 ‘ legal Right, they admitted him to  
 ‘ be their King.

‘ *Volaterus* writes, That he was made  
 ‘ Heir to the Confessor, and was Un-  
 ‘ cle to him.

‘ Another affirms, That Edward by  
 ‘ his Will left England to him.

‘ *Paulus Aemilius*, and *Fulgasius*,  
 ‘ are to the same purpose.

‘ Pope *Alexander* the 11th, sent him  
 ‘ a Banner, as Witness, that with a  
 ‘ safe Conscience he might expel Ha-  
 ‘ rold the Tyrant, becaule the Crown  
 ‘ was due to him by the Confessor’s  
 ‘ Will, and by Harold’s Oath.

Agree-

' Agreeable hereunto are *Gemiticenses*, *Walsingham*, *Malmesbury*, *Huntington*, *Ingulphus*, *Paris*, *Pike*, *Wendover*, *Caxton*, *Gisburn*, and others.

' The Antient Deeds of the Abby of *Westminster* (which were sometime in my Custody) do prove this.

' King *William*, in his Charter to them, sets forth his own Title to the Crown, thus, *Beneficio Concessionis & Cognati mei gloriosi Regis Edwardi*.

' In his second Charter, dated *Anno 15*. of his Reign, he saith, in honour of King *Edward*, who made me his Heir, and adopted me to Rule over this Nation.

' In his Charter, dated 1688. of the Liberties of *St. Martins the Great*, in the Manuscript thereof, are these words;

' In Example of *Moses* who built the *Tabernacle*, and of *Solomon* who built the *Temple*,

' *Ego Guilielmus Dei dispositione, & consanguinitatis Hereditate Anglorum Basileus, &c.*

K

The

‘The Charter of Hen. 1. his Son,  
 ‘to this Abby, in honour of Edward  
 ‘my Kinsman, who adopted my Father  
 ‘and his Children to be heirs to this  
 ‘Kingdom, &c.

‘In another Charter of Hen. 1. in  
 ‘the Book of Ely, he calls himself the  
 ‘Son of King William the Great,  
 ‘who by Hereditary Right succeeded  
 ‘King Edward.

‘It is true, as to his pretence of Ti-  
 ‘tle by the Will of the Confessor,  
 ‘Mathew Paris objecteth, That the  
 ‘Devise was void, being without the  
 ‘consent of the Barons.

‘To which may be answered, That  
 ‘probably the Law might be so in  
 ‘Hen. 3. Time, when Paris wrote, and  
 ‘was so taken to be in the Statute of  
 ‘Carlisle, and in the Case of King John.

‘But at the time of Duke William’s  
 ‘Invasion, the Law was taken to be,  
 ‘That a Kingdom might be transfer-  
 ‘red by Will.

So

‘ So was that of *Sixtus Rufus*; and  
 ‘ *Asia* came to the *Romans* by the  
 ‘ Will of King *Attalus*; the words by  
 ‘ *Annaeus Florus* are, *Populus Romanus*  
 ‘ *Bonorum meorum HÆRES esto.*

‘ *Bithinia* came to the *Romans* by  
 ‘ the last Will of their King *Nicomede-*  
 ‘ *des*, which is remembred by *Utopius*;  
 ‘ together with that of *Libia*.

‘ *Cicero* in his Oration tells us, That  
 ‘ the Kingdom of *Alexandria*, by the  
 ‘ last Will of their King, was devolved  
 ‘ to *Rome*.

‘ And *Prasutagus Rex Icenorum* in  
 ‘ *England*, upon his Death-bed, gave  
 ‘ his Kingdom to the Emperor *Nero*.

‘ As to Examples in this Point at  
 ‘ Home, This King *William the first*;  
 ‘ by his Will, gave *England* to his  
 ‘ younger Son *William Rufus*.

‘ King *Stephen* claimed by the Will  
 ‘ of *Henry the first*.

‘ King Henry the eight had Power,  
 ‘ by Act of Parliament, to order the  
 ‘ Succession of the Crown as he plea-  
 ‘ sed, by Will.

‘ And the Lords of the Council, in  
 ‘ Queen Mary’s Time, wrote to her,  
 ‘ That the Lady Jane’s Title to the  
 ‘ Crown, was by the Will and Letters  
 ‘ of Edward the sixth.

‘ As the case of Hen. 8. was by  
 ‘ Act of Parliament; so Duke Wil-  
 ‘ liam, after he had conquered Pa-  
 ‘ role, was, by the general consent of  
 ‘ the Barons and People of England  
 ‘ accepted for their King; and so his  
 ‘ Title by Will confirmed.

‘ And he both claimed, and govern-  
 ‘ ned the Kingdom, as an Heir and  
 ‘ Successor, confirmed their Antient  
 ‘ Laws, and ruled according to them:  
 ‘ This appears by *Chronica Chronico-  
 ‘ rum*, speaking of William the Ba-  
 ‘ stard, King of England, and Duke  
 ‘ of Normandy, he saith, That where-  
 ‘ as, as St. Edward had no Heir of  
 ‘ England, William having conquered  
 ‘ Parole, the Usurper obtained the  
 ‘ Crown



'Crown under this Condition, That  
'he should inviolably observe those  
'Laws given by the said Edward.

'It is testified likewise, by many of  
'our *Historians*, That the Ancient  
'Laws of England were confirmed by  
'Duke William.

'*Jornalensis* saith, That out of the  
'Merchen-Lage, West-Saxon-Lage, and  
'Dane-Lage, the Confessor composed  
'the Common Law, which remains  
'to this day.

'*Malmesbury*, who lived in Duke  
'William's Time, saith, That the  
'Kings were sworn to observe the  
'Laws of the Confessor, so called,  
'(saith he) because he observed them  
'most religiously.

'But to make this Point clear out  
'of *Ingulphus*, he saith, in the end of  
'his *Chronicle*, "I *Ingulphus* brought  
'with me from London, into my Mo-  
'nastery, (*Crowland*) the Laws of  
'the most Righteous King Edward;  
'which my Lord King William did

“ command, by his Proclamation, to  
 “ be Authentick and Perpetual, and to  
 “ be observed throughout the whole  
 “ Kingdom of *England*, upon pain of  
 “ most heinous punishment.

‘ The *Lieger-Book* of the Abby of  
 ‘ *Waltham*, commends Duke *William*  
 ‘ for restoring the *Laws* of the Eng-  
 ‘ lish-men out of the *Customs* of their  
 ‘ Country.

‘ *Radburn* follows this Opinion, and  
 ‘ these *Laws* of *Edward the Confes-*  
 ‘ *sor*, are the same in part which are  
 ‘ continued in our GREAT CHAR-  
 ‘ TER of LIBERTIES.

‘ A Manuscript entituled, *De Gestis*  
 ‘ *Anglorum*, saith, That at a *Parlia-*  
 ‘ *ment* at *London*, 4. *W. 1.* the Law-  
 ‘ yers also present, that the King might  
 ‘ hear their *Laws*, he established *Saint*  
 ‘ *Edward's Laws*, they being former-  
 ‘ ly used in King *Edgar's* Time.

‘ There is also mention of the *twelve*  
 ‘ Men out of every County, to deliver  
 ‘ truly the *Estate* of their *Laws* : The  
 ‘ same is remembred by *Selden's History*  
 of

of Tythes, and Titles of Honour, and  
in a *Manuscript Chronicle* bound with  
the Book of *Ely* in *Cotton's Library*.

One of the worthy Gentlemen,  
from whom I differ in Opinion, was  
pleased to say, That if *William the*  
*Conqueror* did not introduce the  
Laws of *Normandy* into *England*,  
yet he conceives our Laws to be  
brought out of *France* hither, in the  
time of some other of our *Kings*,  
who had large Territories in *France*,  
and brought in their Laws hither; else  
he wonders how our Laws should  
be in *French*.

Sir, I shall endeavour to satisfy his  
Wonder therein by and by; but,  
first, with your leave, I shall offer to  
you some *Probabilities* out of the  
History, That the Laws of *England*  
were by some of those *Kings* carried  
into *France*, rather than the Laws of  
*France* brought hither.

This is expressly affirmed by *Paulus*  
*Jovius*, who writes, That when the  
English Kings reigned in a great part

of France, they taught the French  
their Laws.

*Sabellicus*, a Venetian Historian,  
writes, That the Normans, in their  
Manners, and Customs, and Laws,  
followed the English.

*Polydore Virgil*, contradicting him-  
self in another place than before ci-  
ted, relates, That in our King Hen. 6.  
Time, the Duke of Bedford called to-  
gether the Chief Men of all the Ci-  
ties in Normandy, and delivered in  
his Oration to them, the many Be-  
nefits that the English afforded them,  
especially in that the English gave to  
them their Customs and Laws.

By the Chronicle of *Eltham*, p. 5.  
sent to *Cane* in Normandy, not only  
Divines, but English Common Law-  
yers, by the agreement at *Troys*.

So there is much more probability  
that the Laws of England were  
introduced into France and Nor-  
mandy, than that the Laws of Nor-  
mandy, or any other part of France,  
were

‘were introduced into England.

‘If the Normans had been Conquerors of England, as they were not; but their *Duke* was only a Conqueror of Harold, and received as hereditary King of England; yet is it not probable they would have changed our Laws, and have introduced theirs; because they did not use to do so upon other Conquests.

‘The Normans conquered the Isles of *Guernsey* and *Fersey*, yet altered not their Laws, which in their local Customs are like unto ours.

‘The like they did in *Sicily*, *Naples*, and *Apulia*, where they were Conquerors; yet the Ancient Laws of those Countries were continued.

‘I hope, Mr. Speaker, I have, by this time given some satisfaction to the Worthy Gentlemen who differed from me, that the Laws of England were not imposed upon us by the Conqueror, nor brought over hither, either out of Normandy, or any other part of France, but are our Ancient Native Laws.

I must now come to indeavour also  
 ' to satisfy the Wonder ; If they were  
 ' *not brought* out of *Normandy*, or  
 ' *some other part* of *France*, how come  
 ' they then to be written in the French  
 ' Language!

' Sir, It is to me an Argument, That  
 ' because they are written in French,  
 ' therefore they were *not brought* in  
 ' by Duke William the Norman ; for  
 ' the French Tongue was not the Lan-  
 ' guage of Duke William, and the  
 ' Normans.

' They had not been then in Duke  
 ' William's Time, past four *descents* in  
 ' that part of France ; and it is impro-  
 ' bable, that they, in so short a Time,  
 ' should lose their *Native Tongue*, and  
 ' take up, and use the Language of  
 ' another Countrey, which was con-  
 ' quered by them.

' The Normans came from Sweden,  
 ' Gothland, Norway, and Denmark,  
 ' between whole Languages, and with  
 ' the *High-Dutch*, their Neighbours,  
 ' there is a great affinity ; but between  
 ' these Languages, and the French,  
 ' there is none at all. Ul-



‘*Ulphilus* holds, that the *Dutch*  
 ‘Tongue came from the *Goths*. *Jor-*  
 ‘*nandus* saith, The *Goth’s* Tongue  
 ‘came from the *Dutch*. All agree,  
 ‘That between those Languages and  
 ‘the *French* there is no affinity.

‘It is so improbable, that Duke  
 ‘*William* should cause our *Laws* to  
 ‘be in *French*, that when he pro-  
 ‘claimed them, (as *Ingulphus* testifies)  
 ‘he commanded that they should be  
 ‘used in the same Language they were  
 ‘written (in *English*) to his Justices,  
 ‘and gives the Reason, Left by Igno-  
 ‘rance we should happen to break  
 ‘them.

‘But it hath been further objected,  
 ‘If Duke *William* did not cause our  
 ‘*Laws* to be written in *French*, what  
 ‘then should be the Reason, that the  
 ‘*Grand Customary* of his *Norman*  
 ‘*Laws* were written in the *French*  
 ‘Tongue?

‘The Reason thereof is given, That  
 ‘the *Normans*, being a Rough and  
 ‘*Martial* People, had few Clerks  
 amongst

‘ amongst them, but made use of those  
‘ French, amongst whom they then  
‘ lived, and whose Language they  
‘ then began to be acquainted with,  
‘ and to understand.

‘ But when they were in England,  
‘ they had not so much use of those  
‘ Clerks, and that Language, but more  
‘ of the English.

‘ And probably it might be, that  
‘ the Confessor had been so long in  
‘ France, that he was more Master of  
‘ that Language than the Normans,  
‘ and that the Normans understood  
‘ that Language better than the Eng-  
‘ lish, and thereupon the Customary  
‘ was written in the French Tongue.

‘ But it doth not therefore follow  
‘ that Duke William must cause the  
‘ English Laws to be written in the  
‘ French Tongue: but it is more like-  
‘ ly, that he might cause them to be  
‘ continued in their Native Idiom,  
‘ which was much nearer in affinity to  
‘ his own Northern Language than the  
‘ French was.

That

‘That the French Tongue was not  
‘introduced, as to our Laws and  
‘other things, by Duke William into  
‘England, appears, in that the French  
‘was in great use with us here, both  
‘before, and some-time after his Inva-  
‘sion.

‘Beda affirms, That in Anno 640,  
‘it was the Custom of England to  
‘send their Daughters into the Mona-  
‘stries of France, to be brought up  
‘there; and that Ethelbert, Ethelwulf,  
‘Ethelred, and other Saxon Kings,  
‘married into the Royal Blood of  
‘France.

‘Glabor notes, That before the Time  
‘of Duke William, the Normans and  
‘English did so link together, that  
‘they were a Terror to Forreign Na-  
‘tions.

‘Ingulphus saith, That the Saxon  
‘Hand was used until the Time of  
‘King Alfred, long before the Time  
‘of Duke William; and that he be-  
‘ing brought up by French Teachers,  
‘used the French Hand.

And

‘ And he notes many Charters of  
‘ Edward and Edgar, written in the  
‘ French Hand, and some Saxon mixt  
‘ with it, as in the Book of Dooms-  
‘ day.

‘ That Edward the Confessor, by  
‘ reason of his long being in France,  
‘ was turned into the French Fashion,  
‘ and all England with him.

‘ But that William the first com-  
‘ manded our Laws to be written in  
‘ the English Tongue, because most  
‘ Men understood it, and that there  
‘ be many of his Patents in the Sax-  
‘ on Tongue.

‘ I suppose we may be satisfied,  
‘ that William the first did not cause  
‘ our Laws to be written in French,  
‘ though the French Language was  
‘ much in use here before his Time.

‘ And if he did not introduce the  
‘ French Language into England, the  
‘ Argument falls, That because they  
‘ are written in French, therefore  
‘ he brought them in.

But,

‘ But, Sir, I shall offer you some  
 ‘ Conjectures, how it came that our  
 ‘ **Laws** were written in French, which  
 ‘ I suppose might be begun in the Time  
 ‘ of our **K. Hen. 2.** who was a French-  
 ‘ man born, and had large Territories  
 ‘ and Relations in France, and with  
 ‘ French-men, of whom great Num-  
 ‘ bers came into England; and they  
 ‘ and the English matched, and lived  
 ‘ together, both here, and in some  
 ‘ parts of France.

‘ Hence it came to pass, (as *Giral-*  
 ‘ *dus Cambrensis* notes) that the Eng-  
 ‘ lish Tongue was in great use in **Bur-**  
 ‘ **deaur**, and in other parts of France,  
 ‘ where the English-men were resident  
 ‘ and conversant; the like was, when  
 ‘ the French-men were so conversant  
 ‘ in England.

‘ *Mathew Westminster* writes, That  
 ‘ he was in hazard of losing his Liv-  
 ‘ ing, because he understood not the  
 ‘ French Tongue: and that in King  
 ‘ **Hen. 2.** and King *Stephen’s* Time,  
 ‘ who had large Dominions in  
 ‘ France; their Native Country, and the

‘the Number of French, and of  
 ‘Matches with them, was so great,  
 ‘that one could hardly know who was  
 ‘French, and who English.

‘*Gervasius Tilsberiensis* observes the  
 ‘same: And *Brackland* writes, That in  
 ‘*Rich.* 1. Time, preaching in England,  
 ‘was in the French Tongue. Probably  
 ‘Pleading might be so likewise; and  
 ‘in King *John*’s Time, French was ac-  
 ‘counted as the *Mother Tongue*.

‘There are scarce any Deeds of our  
 ‘Kings in French before *Hen.* 2. his  
 ‘Time, the most are in *Ed.* 1. and  
 ‘*Ed.* 2. their Time.

‘That our *Laws* were pleaded and  
 ‘written in French before *Edw.* 3. his  
 ‘Time, appears by the *Stat.* 36. *Edw.*  
 ‘3. c. 15. which recites the *Mischief*  
 ‘of the *Law* being in French; and  
 ‘enacts, That the *Law* shall thereafter  
 ‘be pleaded in English, and enrolled in  
 ‘Latin.

‘This is one ground of the mistaken  
 ‘Opinion of *Lambard*, *Polydore*,  
 ‘*Speed*, and others, That Duke *Wil-*  
 ‘*liam* brought in hither both the *Ro-*  
 ‘*man Laws* and Language; which I  
 ap-



'apprehend to be fully answered; and  
'the contrary manifested by what I  
'have said before on this Subject.

'*Polydore's* Mistake may appear the  
'more, when he asserts, that by the  
'*Stat. 36. Edw. 3.* Matters are to be  
'enrolled in *English*, which is con-  
'trary to the express Words, that they  
'are to be enrolled in *Latin*.

'Many of our *Law-Books* were  
'written in *Latin* before the *Norman*  
'Invasion, as appears by the *Ancient*  
'*Rolls of Mannors*, and *Court Barons*,  
'and our Old Authors, *Glanvill*, *Brac-*  
'*ton*, *Tilbury*, *Hengham*, *Fleta*, the  
'*Register*, and the Book of *Entries*.

'The Records at *Westminster* and  
'the *Tower*, and other Records yet  
'extant, are in *Latin*; and many Books  
'of our *Law* in *Latin*, were transla-  
'ted into *English*, about *Edw. 3.* his  
'Time.

'Most of our Statutes, from *Edw. 1.*  
'his Time, till about the middle of  
'*Hen. 7.* his Reign, are enrolled in  
L French,

‘French, notwithstanding this Stat.  
 ‘36. Edw. 3. except the Stat. 6. R. 2.  
 ‘& some others in Latin.

‘R. 2. H. 4. H. 5. and H. 6. used to  
 ‘write their Letters in French; and  
 ‘some of our Pleadings are in  
 ‘French, and in the Common Pleas to  
 ‘our Time.

‘But, Sir, our Law is, *Lex non*  
 ‘*Scripta*, I mean our Common Law,  
 ‘and our Statutes, Records, and  
 ‘Books, which are written in French,  
 ‘are no Argument that therefore the  
 ‘Original of our Laws is from France:  
 ‘but they were in being before any of  
 ‘the French Language was in our  
 ‘Laws.

‘Fortescue writes, That the English  
 ‘kept their Accounts in French, yet  
 ‘doubtless they had Accounts here,  
 ‘and Revenues before the French Lan-  
 ‘guage was in use here.

‘My Lord Cook saith, That the  
 ‘Conqueror taught the English the  
 ‘Norman Terms of *Hawking, Hunt-*  
 ing,

'ing, and Gaming, &c. yet no doubt  
'but that these Recreations were in  
'use with us before his Time.

'And tho' Duke William or any  
'other of our Kings before, or after  
'his Time, did bring in the French  
'Tongue amongst us, yet that is no  
'Argument, that he or they did change,  
'or introduce our Laws, which un-  
'doubtedly were here long before  
'those Times; and some of them,  
'when the French Tongue was so  
'much in use here, were translated,  
'written, and pleaded, and recorded,  
'in the French Tongue, yet remained  
'the same Law still.

'And from the great use of the  
'French Tongue here, it was, That  
'the Reporters of our Law-Cases  
'and Judgments, which were in those  
'Times, did write their Reports in  
'French, which was the pure French  
'in that Time, tho' mixt with some  
'words of Art.

'Those Terms of Art were taken,  
'many of them, from the Saxon  
L 2 Tongue,

' Tongue, and may be seen by them  
 ' yet used ; and the **Reporters** of later  
 ' Times, and our **Students** at this  
 ' day use to take their **Notes** in  
 ' **French**, following the **Old Reports**  
 ' which they had studied, and the **Old**  
 ' **French**, which, as in other **Langua-**  
 ' **ges**, by time came to be varied.

' I shall not deny, but that some  
 ' **Monks** in elder Times, and some  
 ' **Clerks** and **Officers** might have a **Cun-**  
 ' **ning**, for their private **Honour** and  
 ' **Profit**, to keep up a **Mystery**, to  
 ' have as much as they could of our  
 ' **Laws**, to be in a kind of **Mystery**  
 ' to the **Vulgar**, to be the less under-  
 ' stood by them : But the **Councillors**  
 ' at **Law**, and **Judges**, can have no  
 ' advantage by it ; but perhaps it  
 ' would be found, that the **Law**, be-  
 ' ing in **English**, and generally more  
 ' understood, yet not sufficiently, would  
 ' occasion the more **Suits**.

' And possibly there might be some-  
 ' thing of the like nature as to the  
 ' **Court Hand** ; yet if the more **Com-**  
 ' **mon Hands** were used in our **Law**  
**writings,**

‘writings, they would be the more  
 ‘subject to change; as the English,  
 ‘and other Languages are, but not  
 ‘the Latin.

‘Surely the French Tongue used in  
 ‘our Reports and Law-Books, de-  
 ‘serves not to be so enviously decried,  
 ‘as it is by *Polydore, Aliot, Daniel,*  
 ‘*Hottoman, Cowell,* and other Censu-  
 ‘rers.

‘But, *Mr. Speaker,* if I have been  
 ‘tedious, I humbly ask your pardon,  
 ‘and have the more hopes to obtain  
 ‘it from so many worthy English Gen-  
 ‘tlemen, when that which I have  
 ‘said, was chiefly in vindication of  
 ‘their own Native Laws, unto which  
 ‘I hold my self the *more obliged* by the  
 ‘Duty of my Profession; and I ac-  
 ‘count it an honour to me to be a  
 ‘Lawyer.

‘As to the Debate, and Matter of  
 ‘the Act now before you, I have deli-  
 ‘vered no Opinion against it, nor do  
 ‘I think it reasonable, that the gene-  
 ‘rality of the People of England  
 L 3 should,

‘ should, by an Implicit Faith, depend  
 ‘ upon the knowledg of others, in  
 ‘ that which concerns them most of  
 ‘ all.

‘ It was the *Romish* Policy, to keep  
 ‘ them in *Ignorance* of Matters pertain-  
 ‘ ing to their *Souls* Health; let them  
 ‘ not be in *Ignorance* of Matters per-  
 ‘ taining to their *Bodies*, *Estates*, and  
 ‘ all their *worldly* Comfort.

‘ It is not unreasonable, that the  
 ‘ Law should be in the Language  
 ‘ which may best be understood by  
 ‘ those, whose *Lives* and *Fortunes* are  
 ‘ subject to it, and are to be governed  
 ‘ by it.

‘ *Moses* read all the *Laws* openly  
 ‘ before the *People* in their *Mother*  
 ‘ Tongue: God directed him to write  
 ‘ it, and to expound it to the *People*  
 ‘ in their own *Native* Language, that  
 ‘ what concerned their *Lives*, *Liber-*  
 ‘ ties, and *Estates*, might be made  
 ‘ known unto them in their most perspi-  
 ‘ cuous way,

The



‘ The **Laws** of the **Eastern Nations**  
‘ were in their *proper Tongue*.

‘ The **Laws** at **Constantinople** were  
‘ in **Greek**; at **Rome** in **Latini**; in  
‘ **France**, **Spain**, **Germany**, **Sweden**,  
‘ **Denmark**, and other **Nations**, their  
‘ **Laws** are published in their **Native**  
‘ *Idiom*.

‘ For your own **Country**, there is  
‘ no **Man** that can read the **Saxon**  
‘ **Character**, but may find the **Laws** of  
‘ their **Ancestors** yet extant in the **Eng-**  
‘ **lish Tongue**.

‘ **Duke William** himself com-  
‘ manded the **Laws** to be proclaimed  
‘ in **English**, that none might pretend  
‘ *ignorance* of them.

‘ It was the **Judgment** of the **Par-**  
‘ **liament**, 36. **Edw.** 3. That **Plead-**  
‘ **ings** should be in **English**; and in  
‘ the **Reigns** of those **Kings**, when  
‘ our **Statutes** were enrolled in  
‘ **French** and **English**; yet then the  
‘ **Sheriffs**, in their several **Coun-**  
‘ **ties**,

'ties, were to proclaim them in  
'English.

'I shall conclude with a Complaint  
'of what I have met with abroad,  
'from some *Military* Persons; no-  
'thing but *Scoffs* and *Invectives* against  
'our *Law*, and Threats to take it  
'away; *but the Law is above the reach*  
'*of those Weapons, which at one time or*  
'*another will return upon those that use*  
'*them.*

'Solid Arguments, strong Reasons  
'and Authorities, are more fit for  
'Confutation of any Error, and Satisfac-  
'tion of different Judgments:  
'When the *Emperor* took a Bishop in  
'complete *Armour* in a Battle, he sent  
'the *Armour* to the *Pope*, with  
'these words, *Haccine sunt vestes Filii*  
'*tui?*

'So may I say to those Gentlemen  
'abroad, as to their *Railings*, *Taunts*,  
'and *Threats* against the *Law*, *Haccine*  
'*sunt Argumenta horum Antinomiano-*  
'*rum?* They will be found of no  
'force, but recoiling *Arms.*

Nor

*Nor is it ingenious or prudent for  
ENGLISH-MEN to deprave  
their Birth-right, the Laws of their  
own Country.*

Thus, Sir, have I impartially given you my Sentiments of William the first his Conquest, which hath been so terribly and frightfully represented and published to the World, by the Ignorance, Interest, and Artifice of some Modern Writers: Thus have I, as an English Man, endeavoured to do my Country Justice, and to support the true Honour, both of our worthy Saxon Ancestors, and of our excellent and famous Laws against Conquest and Slavery; as also to justify the Ancient Parliamentary Right as well of Lords as Commons.

But yet for your fuller and clearer satisfaction in this so weighty a Point, I shall refer you, if you please, to the Learned and Judicious Discourses writ, in some measure, more particularly  
upon

upon this Subject, never yet sufficiently answered to my Conviction, though I have industriously compared and considered all the pretended Answers and them together, (without the least of byass or prepossession; and I heartily could wish others would do the like, and that for TRUTH's sake.)

The Discourses are these, viz.

Mr. Selden's *Jani Anglorum Facies Altera.*

Mr. Sylas Taylor's *History of Government.*

Mr. Pety's *Rights of the Commons of England asserted.*

And Mr. Attwood's, *Jani Anglorum Facies Nova.*

And his,

— *Jus Anglorum ab Antiquo.*

You would likewise, I suppose, be extremely pleased in the perusal of another Learned and Modest Book,  
written

written by an *Anonymous* Author, entitled,

*Patriarcha non Monarcha.*

Authors, for whose Names Posterity will have a greater respect than we at present have; and that for their discovery of Truth, and refuting so many Vulgar Errors.

I am, SIR,

Your most Faithful

Servant, &c.

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*FINIS.*

For the purpose of the Association, the Journal is published as a medium for the exchange of information and for the advancement of the science and practice of medicine. It is the policy of the Association to publish only such material as will be of interest and value to the medical profession.

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## The Appendix.

**A** Bbas de Middleton tenet in Capite de Domino Rege Mann-  
nerium de Middleton, &c. ex Feoffamenti Regis Æthel-  
stani & nullum servitium fecit nisi Orationes.

*In Rotulo de Inquisitionibus Dominicorum Dorsetshire.*  
An<sup>o</sup>. 4<sup>to</sup>. R. H. Fil. R. I.

Here we see that King Æthelstan, who reigned above  
740 Years agoe, infeoffed the Abbey of Middleton, of the  
Mannor of Middleton; and that by virtue thereof, the Ab-  
bot held it in Capite, 4. H. 3. and did no Service for it, but  
only to pray for the Souls of him, and other succeeding  
Kings; and all this, you see, found by Inquisition, in the  
Fourth Year of Hen. 3.

*Rot. Cartar. 19. H. 6. Nu. 16. m. 27. per Inspex.*

Pro Decano & Capitulo Sancti Martini Magni  
London. per Inspeximus.

*Inspeximus Cartam, quam celebris Memoria Dominus Wil-  
lielmus quondam Rex Angl. progenitor nostri, fecit Deo  
& Ecclesie Sancti Martini Magni London. in hec verba:*

**Q**uia inter multa bona opera, quæ fideles Chri-  
sti pro animarum suarum salute operantur, hoc preci-  
puum estimatur & tenetur, Quod institution & e-  
dificatione Sanctæ Matris Ecclesie devota mente impendi-

tur in qua suorum Dei supplicationibus peccata a pio Deo diluuntur, quod Moyses in mystici Tabernaculi constructione p̄monstravit, quod etiam Salomonis industria p̄figuravit, dum Templum Dño Artificioſum & honorabile edificaret, futuram ſignificans Eccl̄eam ſummo a fidelibus debere honore decorari, quorū vidit exemplo in nomine Dñi n̄ri Jeſu Chriſti, Ego Wiſſus Dei diſpoſitione & conſanguinitatis hereditate Anglorum Baſileus Normannorū, & Dux, & Rector cujuſdam fidelis mei Ingelrici ſcilicet petitioni acquieſcens Archiepiſcoporum, Episcoporum, Abbatum, Comitum & Univerſorum procerum meorum, Sacro Conſilio parens omnes poſſeſſiones terrarum, quas tempore venerabilis ac dilectiſſimi cognati & predeceſſoris mei Regis Edwardi, Idem Ingelricus acquiſierat q̄ ipſius inſigniſſimi Regis Animæ Salute, necnon & peccatorum meorum Remiſſione, concedo & Regia auctoritate imp̄p̄m corroboro & confirmo Deo & Eccl̄e Beati Martini, quam infra muros London. ſitam p̄ſatus Ingelricus & Erardus Frater ejus de propriis ſuis Redditibus in delictorū ſuorū Remediū honorabiliter ad Dei laudem, & Canonicaſ Regulam imp̄p̄m ſervand & tenend conſtruxerunt. Sunt igitur hæc terrarum nomina, &c.

Et ſi quas alias libertates vel conſuetudines, aliqua Eccl̄earū Regni mei Angl̄ meliores hec; ſi quis vero hoc in aliud quam conceſſimus transferre p̄ſumpſerit, cum Juda Proditore Dei hereditas luat penas. Scripta eſt hæc Chartula An. ab Incarnatione Dñi M. LX. VIII. ſcilicet ſecundo Anno Regni mei; pacta vero eſt hæc Donatio die Natalis Dñi, & poſtmodum in die Pentecoſt confirmat, quando Matil conjux mea in Baſilica Sancti Petri Weſtm̄ in Reginam divino nutu eſt conſecrata, &c.

Ego Wiſſus Rex Anglorum & Dux Normannorum ſub Sigillo Sancte, + quas indeclinabiliter conſenſi atq;

rokoravi. Ego Matil Regina conſenſum prebui. Ego Ricus

cus Regis Fil annui. Ego Stigandus Archiepiscopus subscripsi. Ego Aldredus Archiepiscopus confirmavi. Ego Wiltus Lond Episcopus, infra cuius muros pfatum Monasterium situm est, lignaculo Sancte Crucis subarravi, & libertatem omnimodam quantumcumq, mee ptinet possibilitati, concessi. Ego Odo Baiocensis Episcopus concessi. Ego Hugo Luxoniensis Episcopus interfui. Ego Goiffrius Episcopus corroboravi. Ego Hermannus Episcopus concessi. Ego Leouricus Episcopus concessi. Ego Giso Episcopus concessi. Ego Edwinus Abbas. Ego Wolwaldus Abbas. Ego Baldwinus Abbas. Ego Agellinus Abbas. Ego Turtlinus Abbas. Ego Brand Abbas. Ego Alswinus Abbas. Ego Sithricus Abbas. Ego Wiltus Fil Ostti Comes. Ego Robtus Frat Regis Comes. Ego Edwinus Comes. Ego Robtus Comes. Ego Marchere Comes. Ego Waldeof Comes. Ego Rogerus de Monte Goverii Comes. Ego Ricus Fil Gislebri Princeps. Ego Wiltus Malet Princeps. Ego Arfallus Regis Cancellarius. Ego Michael Regis Capellanus. Ego Gislbrus Capellanus. Ego Osbinus Capellanus. Ego Wiltus Capellanus. Ego Thomas Capellanus. Ego Bernardus Capellanus. Ego Walterus Capellanus. Ego Robtus Capellanus. Ego Johes Sancte Romane Eccle Cardinalis Presbir per Gallias & Angl concedente Papa Alexandro vices Apostolicas gerens, huic constitutioni interfui, & quantum Aposto-

lice Sedi ptinuit libertatem Eccle psenti Signo confirmavi. Ego Petrus Sancte Romane Eccle similic Cardinalis Presbir & Cancellarius, ab eodem Papa in Angl electus, huic Constitutioni acquiescens propria Manu subscripti.

I give you this Charter, Sir, as a further Proof and Evidence for me, in these Particulars, viz.

1. You may observe by these words, *Consanguinitatis hereditate Anglorum Basilens*, that here King William made an absolute disclaimer of Conquest, in the second Year of his Reign, and only insisted on, (what he knew full well was his *suver bold*;) his claim by Hereditary Right.

2. And this is so much the more considerable, as it was done in his Great Council of Arch-bishops, Bishops, Abbots, Earls, & *Universorum procerum suorum*, a word of a large signification, as well in Historians as in Ancient Records, for under the word *Proceres* were comprehended *Principes Civium, vel Civitatis*; And the former Instances I have given you of other General Councils, and the Parts thereof in this King's Reign, fully agree with this Interpretation.

Rot. Parl. 2.  
H. 5. Pars se-  
cunda N. 10.

3. The Claim and Protestation of the Commons made the Parl. 2d H. 5. which says, *That so as hit hath ever be their Liberte and Freedom, that that should no Statute, ne Law, be made of lasse then they yasse thereto their assent, considering that the Commune of your Lond, the which that is, and ever hath be a Membre of your Parliament, been as well Assentirs as Petitioners. And which was ratified and confirmed by the King and Lords, and so became an Act of Parliament, was, but an Affirmation and Declaration of the Ancient Law of the Land: And the same Right cannot be denied by any Man to the Lords.*

4. And that he confirmed (as the Custom of succeeding Kings have done to this day) all the Possessions of those Lands to the Church of St. Martins le Grand, which they had in the Time of EDWARD the CONFESSOR.

Now if this fond Notion of William's Absolute Conquest be true,

true, then either the Arch-bishops, Bishops, Abbots, Priors, Earls, Barons, and Commons, in *Parl.* 15. R. 2. knew it, or they did not. That they were ignorant of it, is not easily to be presumed, because they lived within ten of three hundred Years ago, and no doubt but there were some Learned Men among them, that knew the ancient Constitutions of the Nation: And if they did, then were they guilty of the greatest madness and folly that ever was, when the Commons prayed that King; En

plein Parlement que nostre Seigneur le Roy soit *Rot. Parl.*

& estoise aussi frank en sa Regalie Liberte & 15. R. 2.

Dignite Royale en son temps come ascuns de N. 13.

cest Noble Progenitors, Roys d'Engl

furent en leur temps nient contrestant ascun Estatut ou Ordinance fait devant cest heures a contraire & mesment en derogation de la Libertee & Franchise de la Corone qu'il soit adnulle & de nul force & puis touz les Prelates & Seigneurs Temporels prièrent en mesme le manere & sur ce nostre Seigneur ledit Roy mercia les dits Seigneurs & Communes de la grant tendresse & affection qu'ils avoient a la Salvation de son Honeur & de son Estate & a cause que leur dit priers & requestes luy semblerent honestes & resonables il sagrea & assenta pleinement a ycelles.

Now can any Man, of but an ordinary understanding, think, That the Parliament intended, by this Act, to ont themselves of all their Ancient and Legal Rights, and totally to give up their Estates and Fortunes to the King's absolute Disposition? Is it possible almost to be supposed, that they designed to confound and overthrow the whole Polity and Government of the Kingdom, and reduce all to the Arbitrary Will and Power of a New Conqueror, without a Conquest? What Man is there (that is not become servile to Common Opinion, and implicit Suppositions) of so Inventive a Faculty, as to conjecture such grand Absurdities? And yet



yet these, and many more, are the direct Consequences of those that endeavour to maintain and justify these pernicious Principles.

For the *Petition and Law* is, that *Rich. 2.* should be as free in his *Regality, Liberty, and Dignity* Royal, as any of his *Noble Progenitors* Kings of *England*; then it naturally follows, That he was to be as *Free and Absolute* as

*The Anonymus Author*  
against *Mr. Petyt.* p. 43.

*William the Conqueror*: And then what is the Conclusion and Result, But that the *English* were neither to have *Estates* nor *Fortunes* left them: and therefore it could be no great Matter to them, by *what Law, Right, or Property*, Men held their *Estates*; And so farewell to *Parliaments*.

*Raf. Stat. 15*  
*R. 2. f. 161.*

But we know, and are well assured, That never any such *Imagination* entred into the *Minds* of the *Lords and Commons*, in *15. R. 2.* not only by the *Laws* made then in that *Parliament*, but by those in the next *Parliament*, held the next Year after.

*Id. 16. R. 2.*  
*fo. 163.*

*Rot. Parl. 16*  
*R. 2. N. 8.*

The *Commons* granted to the *King*, That (*pur la grant Affiance, Affection, and Assurance*) for the great *Trust, Affection, and Assurance* they had in the *Noble Person* of the *King*, in his most excellent *Knowledg*, and his most sage *Discretion*; and also for the great *tenderness* they had for his *Crown* and the *Kingdom* (& les drets dicels) and the *Rights* thereof, (*s'accorderant & assenterent*) they agreed and assented, in full *Parliament*, That the *King*, by good *deliberation*, and *Assent* of the *Lords* of his *Wise Council*, might take the whole Matter, touching the *Statute of Provisors*, to him; and that he should have full *Power and Authority* to modify the said *Statute* against the *Pope* and *Court of Rome*; and to *Ordain*,



tain, by the Deliberation and Assent aforesaid, in such manner as he should think best, to the Honour of God, and of Holy Church, and the Salvation of the Rights of his Crown, and of the Estate and Profit of this Realm, and to put the same in execution when done.

And that (*au prochein Parlement*) at the next Parliament, all the Matter aforesaid should be fully shewn (*au dix Communes*) to the said Commons; and the Reason thereof is memorable, viz. (*au fin qu'ils purront alors par bon avisement agréer, si Dieu plest, a ycelles*;) That the Commons then might, upon good advice, agree thereto, if it should so please God.

From all which it evidently appears;

1. That no Law could be made in Richard the Second's Time, or in any of his Progenitors, Kings of England, (which cannot but take in William the First) without the Assent of the Lords and Commons in Parliament:

2. That none of those Kings could abrogate or make void such Laws, when made, without the like assent.

3. That though the General Phrase, viz. That King Richard should be and stand as free in his Regality, Liberty, and Dignity Royal in his Time, as any of his Progenitors were in theirs; and that the King says, That the Desires and Requests of the Commons, seemed honest and reasonable to him, and therefore he gave his Royal Assent to that Law: Yet neither the King, nor the Lords, could ever believe, that it was honest and reasonable; or that it was any part of the Liberty and Dignity of the Crown, to change the whole Frame and Constitution of the English Government, by altering and making Laws at Will; by taking away the Subjects Possessions, and bestowing them upon whomsoever he pleased; by destroying the ancient Course and Power of Parliaments; and, in a word, by turning all things topsy turvy.

And

And thus we have the Evidence and Proof of the greatest Authority that can be given, against the Absurdity, as well as falseness, of King William's Absolute Conquest, viz. a Law and Statute of the Kingdom.

To conclude all, I shall make bold to borrow the words of that great Assertor of the Protestant Cause, against the Intollerable Usurpations of Papal Power, the so eminently Learned and Pious Thomas now Lord Bishop of Lincoln, in his *Treatise of Popery, or the Principles and Positions approved by the Church of Rome, &c. in Quarto*, pag. 116. and say, If any Man can truly and impartially (as to the sum and substance of the Testimonies here cited, for I neither need, nor will undertake for every particular Circumstance, or Typographical Error) either shew,

1. That I have misquoted the Authors and Books I cite; and that such Passages do not occur in the places quoted.
2. Or (if they do occur) that I have mistook their meaning, as to the Purposes for which they are produced.

I say, If any Man can, and will ingeniously shew me either of these, I shall be so far from not confessing my Fault, or declaring how I was misled into it; that I shall have a hearty value for any such friendly admonition, and receive it with all the grateful acknowledgment as becomes me: For my only design is, the Detection of Error, and Establishment of Truth to future Generations, and not to have the World imposed upon by the Tricks, Impostures, and Artifices, which too many have been guilty of, either to promote their own particular Gain and Interest, (to which such care not what they Sacrifice) or, upon a far worse, and more grievous Consideration, to bring the whole Nation into dividing Parties and Factions; and thus by Embroyls and Entanglements, to throw them at last into fatal Convulsions, to the destruction both of Prince and People.

F I N I S.

